

Exhibit 1

Jenny Winkler

From: Jenny Winkler
Sent: Wednesday, April 15, 2015 4:05 PM
To: 'Jacob Kubert'
Cc: Steve Cheifetz; Robert Grasso
Subject: RE: McNally v. Sun Lakes HOA

Jacob – I just returned to my office from a meeting and found your proposed Joint Report and Scheduling Order sitting in my in-box. I note that you sent these after 2 pm on the day they are due. I have forwarded the draft to Bob, who is in a conference call that will go until at least 5, and probably later. As I mentioned when we spoke yesterday, I am getting on a plane tomorrow to travel to San Francisco for an argument before the Ninth Circuit on Friday. Unfortunately, we will not have time to give your draft appropriate consideration, confer with our clients, and provide you with comments before the end of the day today.

I suggest you contact the Court and get some additional time (I would suggest until next Friday), and I will get back to you on this when I return to the office next week and have a chance to give it the attention needed.

Jenny Winkler

Main Office: (480) 739-1200
Direct Line: (480) 739-1203
E-Mail: jwinkler@grassolawfirm.com



Main Office
2121 W Chandler Blvd, Suite 100
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From: Jacob Kubert [mailto:jak@cimlaw.com]
Sent: Wednesday, April 15, 2015 2:09 PM
To: Jenny Winkler
Cc: Steve Cheifetz
Subject: McNally v. Sun Lakes HOA

Jenny,

Attached for your review please find a proposed Joint Report and Scheduling Order.

Jake

Jacob A. Kubert
CHEIFETZ IANNITELLI MARCOLINI, PC

111 West Monroe Street, 17th Floor
Phoenix, Arizona 85003
Telephone: (602) 952-6000
Facsimile: (602) 952-7020

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Exhibit 2

Jenny Winkler

From: Jenny Winkler
Sent: Wednesday, April 22, 2015 10:07 AM
To: 'Jacob Kubert'
Cc: Steve Cheifetz; Robert Grasso
Subject: RE: McNally v. Sun Lakes HOA

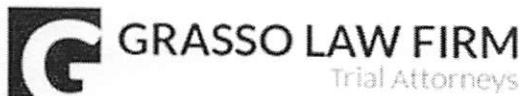
Jacob & Steve – We have now had the opportunity to review your proposed Joint Report and Scheduling Order. Defendant will not agree to your proposal. Please submit a revised draft that lays out a standard schedule for completion of discovery, etc. We suggest completion of discovery by the end of October and filing of dispositive motions by mid-December. We also think the case should be set for a settlement conference or private mediation and suggest a deadline of the end of January 2016 to complete that process.

As to Plaintiff's claim for injunctive relief, please file a motion under Rule 65 so that the issues to be heard are properly framed and we can determine what discovery is necessary to complete in advance of an evidentiary hearing. Although we think it is extremely unlikely that we can accommodate all of the depositions you are proposing within the very compressed timeframe you are proposing, we are happy to cooperate with you in the scheduling of depositions once we have some understanding of how the depositions you are requesting are related to the issues raised by Plaintiff's various claims, and we can try to expedite the scheduling of those depositions that must be completed in advance of an evidentiary hearing, once we have a clear picture of the issues that will be addressed at the evidentiary hearing.

Finally, concerning your request that the Association supplement its response to Plaintiff's Non-Uniform Interrogatory No. 3, please review my letter dated February 9, 2015, in which I explain in detail the basis for the Association's objection. I have never received any clarification from you as requested in that letter, and I think it would make more sense for you to provide the clarification and allow the Association to supplement, rather than moving to compel without first trying to resolve the ambiguity that we have raised.

Jenny Winkler

Main Office: (480) 739-1200
Direct Line: (480) 739-1203
E-Mail: jwinkler@grassolawfirm.com



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From: Jacob Kubert [mailto:jak@cimlaw.com]
Sent: Wednesday, April 15, 2015 2:09 PM

To: Jenny Winkler
Cc: Steve Cheifetz
Subject: McNally v. Sun Lakes HOA

Jenny,

Attached for your review please find a proposed Joint Report and Scheduling Order.

Jake

Jacob A. Kubert
CHEIFETZ IANNITELLI MARCOLINI, PC
111 West Monroe Street, 17th Floor
Phoenix, Arizona 85003
Telephone: (602) 952-6000
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Exhibit 3



**CHEIFETZ
IANNITELLI
MARCOLINI P.C.**

Attorneys
www.cimlaw.com

April 27, 2015

STEVEN W. CHEIFETZ
CLAUDIO E. IANNITELLI
JOHN C. MARCOLINI*
CHASE E. HALSEY
DANIEL P. VELOCCI**
LAWRENCE E. PALLES
JACOB A. KUBERT*
MARC MAHER†

OF COUNSEL
ROSS O. MORREALE*†
DANIEL P. IANNITELLI**
ILENE H. COHEN††

Via E-Mail and Regular Mail

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, PC
2121 West Chandler Blvd., Suite 100
Chandler, Arizona 85224
jwinkler@grassolawfirm.com

**Re: McNally v. Sun Lakes Homeowners Association #1, Inc.
Maricopa County Superior Court Case No.: CV2014-009496
Our File No.: 3172-4**

Dear Ms. Winkler:

We are in receipt of your e-mail dated April 22, 2015 and this letter shall respond to the issues raised therein as well as others raised in prior correspondence.

1. Scheduling

For the reasons discussed in our Proposed Joint Report and as discussed during our telephone conversations, we disagree about proceeding with scheduling all issues for a trial on all issues in 2016. There is no good reason why the parties cannot proceed with an evidentiary hearing scheduled within the next 3-4 months on Plaintiff's claim for declaratory/injunctive relief once depositions are completed. Plaintiff is suffering irreparable harm not being permitted to participate in executive sessions and waiting until 2016 to resolve that issue serves no purpose. We have agreed to allow the Association to file any dispositive motions it has on Plaintiff's remaining claims after the hearing and have agreed to be bound by any findings of fact resulting from the hearing. Therefore, there is no prejudice to the Association agreeing to an expedited evidentiary hearing.

Therefore, we intend to file a Motion under Rule 65 and will ask the Court to schedule a prompt evidentiary hearing on Plaintiff's claim for declaratory/injunctive relief and enter a scheduling order that comports with the scheduling of the hearing.

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NEW YORK OFFICE
275 MADISON AVENUE, 14TH FLOOR • NEW YORK, NEW YORK 10016 • (212) 697-9400 • FAX (212) 697-9401

* ALSO ADMITTED IN NEW YORK AND NEW JERSEY ** ALSO ADMITTED IN COLORADO † ALSO ADMITTED IN CALIFORNIA
† ONLY ADMITTED IN ILLINOIS † ONLY ADMITTED IN CALIFORNIA †† ONLY ADMITTED IN NEW YORK AND NEW JERSEY

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, PC
April 27, 2015
Page 2

2. Depositions

On April 14, 2015, we sent you an e-mail advising of our intent to depose Rick Schwartz and Roberta Laird and asking you for dates that you would make them available. As we have not received a response to this request, we have undertaken the liberty of scheduling Mr. Schwartz' deposition on May 26, 2015 at 9:00 a.m. and Ms. Laird's deposition on May 27, 2015 at 9:00 a.m. (see enclosed Notice of Deposition). If these dates do not work for you or the two deponents, please call me to discuss mutually convenient dates. We will not take these depositions off the calendar until we have agreed on alternative dates.

In our April 14th email, we also asked whether you would voluntarily produce Clint Warrell, Jeannie Martens and Bill Hoyt for deposition considering that the Association identified them in its Initial Disclosure Statement as being in care of your firm.¹ As we consider these persons non-parties, pursuant to Ariz. R. Civ. P. 30(a)(1), we hereby request that you agree to allow us to depose these individuals and request that you provide us with their last known addresses so that we may serve them with subpoenas.² If we do not receive your agreement to depose these individuals by April 30, 2015, we will file the appropriate motion seeking permission from the court.

¹ Pursuant to Lang v. Superior Court (East Valley Jeep/Eagle, Inc.), 170 Ariz. 602 (App. 1992), should we choose to forego their depositions, we believe that we can communicate with these persons directly because they are former employees who did not engage in any acts or omissions giving rise to Plaintiff's claims that the Association has improperly screened Plaintiff from executive sessions and has defamed her. None of these individuals were on the Board when the Association started screening Plaintiff from executive sessions and, to Plaintiff's knowledge, none has defamed Plaintiff in a manner that would make the Association liable. As such, please advise by April 30, 2015 whether or not you agree with our assessment so that we may communicate with these persons or file the appropriate motion.

² Alternatively, if you consider these persons "parties," please confirm that you will accept deposition notices on their behalves and produce them (in the event we choose to depose them rather than communicate with them directly).

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, PC
April 27, 2015
Page 3

3. Association's Response to Non-Uniform Interrogatory No. 3

Non-Uniform Interrogatory No. 3 states as follows:

NUI 3 – Explain in detail whether the Board of Directors held a vote to remove and/or screen Plaintiff from executive sessions. In so doing, please state whether the vote to remove and/or screen Plaintiff from executive sessions was identified in any agenda or notice to the community prior to such vote, when the vote was held, who was in attendance during the vote, what matters the Board determined to remove and/or screen Plaintiff from participating in (if not all), how long the sanction was to apply and produce the minutes of whichever meeting was held where Plaintiff was so sanctioned.

In your letter dated February 9, 2015, you explain that the Interrogatory is vague, ambiguous, confusing and misleading because there are numerous circumstances when the Association can “hold a vote” and the Association is “left to guess” what “hold a vote” means. This response is unavailing. Plaintiff did not ask *when* and under what *various circumstances* the Association can hold votes. The interrogatory clearly asks whether the Association held a vote to remove and/or screen Plaintiff from executive sessions.

Black's Law Dictionary, 8th Edition defines vote as, “the expression of one's preference or opinion in a meeting or election by ballot, show of hands, or other type of communication.”

Based on this definition and the commonly understood meaning of “vote,” did the Board “express its preference or opinion in a meeting, show of hands or other type of communication” to remove and/or screen Plaintiff from executive sessions? Boards hold votes all the time. Did they or didn't they vote on removing or screening Plaintiff from executive sessions? The Association's obstructive response that votes are held pursuant to various bylaw provisions completely evades the simple and clear questions posed. The interrogatory is clear. The Association must supplement its response by April 30, 2015 or we will file the appropriate Motion to Compel seeking reimbursement of our attorneys' fees and costs incurred for such Motion.

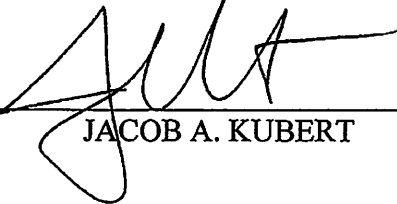


CHEIFETZ
IANNITELLI
MARCOLINI P.C.

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, PC
April 27, 2015
Page 4

Very truly yours,

CHEIFETZ IANNITELLI MARCOLINI, P.C.

By: 

JACOB A. KUBERT

JAK/ts
Enclosures
cc: Collette McNally

1 Steven W. Cheifetz (011824) - swc@cimlaw.com
2 Jacob A. Kubert (027445) - jak@cimlaw.com
3 **CHEIFETZ IANNITELLI MARCOLINI, P.C.**
4 111 West Monroe Street, 17th Floor
5 Phoenix, Arizona 85003
6 Tel. (602) 952-6000
7 Fax (602) 952-7020

8 Attorneys for Plaintiff

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 COLETTE MCNALLY, an individual,
12
13 Plaintiff,

No. CV2014-009496

**NOTICE OF DEPOSITION OF
RICK SCHWARTZ**

14 -vs-

15 SUN LAKES HOMEOWNERS
16 ASSOCIATION #1, INC., an Arizona non-
17 profit corporation,
18 Defendant.

19 **YOU ARE HEREBY NOTIFIED** that, pursuant to Rule 45, Arizona Rules of Civil
20 Procedure and A.R.S. §12-1631, the deposition will be taken upon oral examination of the person
21 whose name and/or address is stated below at the time and place stated below before an officer
22 authorized by law to administer oaths. If the names are not known, a general description sufficient
23 to identify those persons or the particular classes or groups to which those persons belong is given
24 below.

25 **PERSON TO BE EXAMINED:** Rick Schwartz
26 **DATE AND TIME OF DEPOSITION:** May 26, 2015 at 9:00 a.m.

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PLACE OF DEPOSITION:

Cheifetz Iannitelli Marcolini, P.C.
111 West Monroe Street, 17th Floor
Phoenix, Arizona 85003

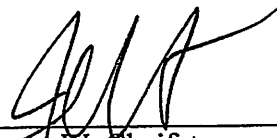
The undersigned certifies that copies of this notice will be served as follows:

Served by: [X] Mailing; [] Delivering a copy to:

Rick Schwartz
c/o Jenny J. Winkler, Esq.
GRASSO LAW FIRM, P.C.
2430 West Ray Road, Suite 3
Chandler, Arizona 85224
Attorneys for Defendant

DATED this 27th day of April 2015.

CHEIFETZ IANNITELLI MARCOLINI, P.C.

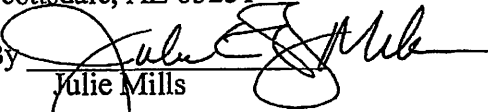
By 

Steven W. Cheifetz
Jacob A. Kubert
Attorneys for Plaintiff

Copy of the foregoing mailed and emailed
this 27th day of April 2015, to:

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, P.C.
2430 West Ray Road, Suite 3
Chandler, Arizona 85224
Attorneys for Defendant

Carrie Reporting LLC
4021 North 75th Street
Suite 101
Scottsdale, AZ 85251

By 

Julie Mills

NA\CLIENTS\McNally\Sun Lakes HOA 3172-4\Discovery\NOD Schwartz 04 23 15.doc

1 Steven W. Cheifetz (011824) - swc@cimlaw.com

Jacob A. Kubert (027445) - jak@cimlaw.com

2 **CHEIFETZ IANNITELLI MARCOLINI, P.C.**

3 111 West Monroe Street, 17th Floor

Phoenix, Arizona 85003

4 Tel. (602) 952-6000

5 Fax (602) 952-7020

6 Attorneys for Plaintiff

7
8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 COLETTE MCNALLY, an individual,

No. CV2014-009496

11 Plaintiff,

**NOTICE OF DEPOSITION OF
ROBERTA LAIRD**

12
13 -vs-

14 SUN LAKES HOMEOWNERS
15 ASSOCIATION #1, INC., an Arizona non-
16 profit corporation,

17 Defendant.

18 **YOU ARE HEREBY NOTIFIED** that, pursuant to Rule 45, Arizona Rules of Civil
19 Procedure and A.R.S. §12-1631, the deposition will be taken upon oral examination of the person
20 whose name and/or address is stated below at the time and place stated below before an officer
21 authorized by law to administer oaths. If the names are not known, a general description sufficient
22 to identify those persons or the particular classes or groups to which those persons belong is given
23 below.

24 **PERSON TO BE EXAMINED:**

Roberta Laird

25 **DATE AND TIME OF DEPOSITION:**

May 27, 2015 at 9:00 a.m.

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PLACE OF DEPOSITION:

Cheifetz Iannitelli Marcolini, P.C.
111 West Monroe Street, 17th Floor
Phoenix, Arizona 85003

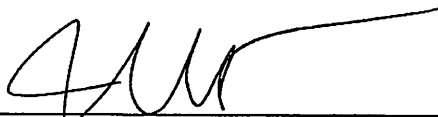
The undersigned certifies that copies of this notice will be served as follows:

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Roberta Laird
c/o Jenny J. Winkler, Esq.
GRASSO LAW FIRM, P.C.
2430 West Ray Road, Suite 3
Chandler, Arizona 85224
Attorneys for Defendant

DATED this 27th day of April 2015.

CHEIFETZ IANNITELLI MARCOLINI, P.C.

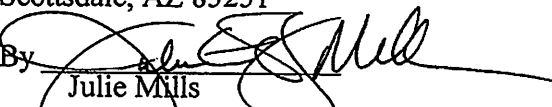
By 

Steven W. Cheifetz
Jacob A. Kubert
Attorneys for Plaintiff

Copy of the foregoing mailed and emailed
this 27th day of April 2015, to:

Jenny J. Winkler, Esq.
GRASSO LAW FIRM, P.C.
2430 West Ray Road, Suite 3
Chandler, Arizona 85224
Attorneys for Defendant

Carrie Reporting LLC
4021 North 75th Street
Suite 101
Scottsdale, AZ 85251

By 

Julie Mills

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Exhibit 4

Jenny Winkler

From: Jenny Winkler
Sent: Tuesday, April 28, 2015 3:35 PM
To: 'Jacob Kubert'
Cc: Robert Grasso; Steve Cheifetz
Subject: McNally v. Sun Lakes HOA#1

Jacob – This e-mail confirms our telephone conference of this afternoon in which we discussed the matters raised in your letter of April 27, 2015.

1. Scheduling – I informed you that as far as I understood, the main focus of disagreement is that Defendant will not stipulate to an evidentiary hearing *in the absence of an appropriate motion under Rule 65*. If you file the motion in the next couple of days as you stated you intend to, and the Court can accommodate an evidentiary hearing by the end of the summer, and the parties can complete any discovery needed for the evidentiary hearing in that time frame, then we agree there is no reason why the evidentiary hearing cannot be scheduled sometime around the end of the summer. But we will not stipulate to the Court scheduling an evidentiary hearing when no motion has been filed and the issues to be heard are not properly framed. I also requested that you send over a proposed draft of the Joint Report noting areas of disagreement and allow me to add Defendant's position as required by the Rule. You indicated that you would do so.
2. Depositions – I am out of town on May 26 & 27, the dates on which you have noticed the depositions of Richard Schwartz and Roberta Laird. Richard Schwartz is leaving town this Friday and will not be back until after July 4. We agreed today to schedule his deposition on July 15 at 9:30. I will confirm that date with Mr. Schwartz, but it should not be a problem. Concerning the rest of the depositions that you are requesting, we agreed that I will call you after I receive your motion to discuss whether or not Defendant will agree to these depositions. As it stands right now, I do not see what relevant evidence any of these persons would have to offer, at least not on Plaintiff's claim for declaratory/injunctive relief, but I will revisit the issue with the benefit of your motion in hand, and give you a call.
3. Defendant's Response to Plaintiff's NUI#3 – I advised that Defendant will supplement its answer based on the clarification provided in your letter, and will do so as soon as possible, but not by April 30, which is a wholly arbitrary date and not a reasonable amount of time. I would expect to be able to get that supplemental response out to you sometime next week. As we discussed, part of that response requires production of material that is confidential and can only be produced subject to a protective order. I sent you and Steve a draft Stipulated Protective Order back on February 5, and you have not responded. Please review that draft and provide me with any comments so that we can get the Order in place and I can produce complete responses to Plaintiff's discovery requests.

I look forward to receiving Plaintiff's motion, a new draft of the Joint Report, and your comments on the proposed Stipulated Protective Order at your convenience.

Jenny Winkler

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Jenny Winkler

From: Jacob Kubert <jak@cimlaw.com>
Sent: Tuesday, April 28, 2015 5:26 PM
To: Jenny Winkler
Cc: Robert Grasso; Steve Cheifetz
Subject: FW: McNally v. Sun Lakes HOA#1

Jenny,

We cannot agree to wait until July 15th to do the deposition of Rick Schwartz. We asked for dates on April 14th when Mr. Schwartz was available and, in doing so, even expressed concern that deponents may be leaving for the summer but we did not receive a response to that email. It is now two weeks later that we are being advised that Mr. Schwartz is leaving Arizona and not returning until after July 4. As such, you advised that you will not produce him until he returns and have also advised that you are unwilling to consent to a telephonic deposition. Such delay tactics are unreasonable and Plaintiff should not be forced to wait nearly 3 months to depose him. Please advise by April 30 whether you will make an accommodation and produce him or we will file the appropriate motion to compel.

As for the deposition of Roberta Laird, she is an employee of the party defendant and her deposition remains as scheduled for May 27th. You advised below and during our telephone conversation that you are unwilling to produce Ms. Laird, Jeannie Martens, Bill Hoyt or Clint Warrell without seeing our Rule 65 motion first because you cannot see what relevant evidence these deponents have to offer. Our Rule 65 motion will not be providing anything new. Now that our summary judgment motion has been denied and the court has held that genuine issues of fact exist based on your opposition, the circumstances surrounding the Martens confession are directly relevant to the issue of whether the Association has improperly screened Plaintiff from executive sessions. Plaintiff maintains that she's been screened to cover up the confession and the Association says it was protecting itself from defamation. We need to know the truth. That issue is at the heart of this case and any attempt to deny Plaintiff her right to depose Laird, Martens, Hoyt and Warrell can be viewed as nothing more than delay tactics. To that end, please advise by April 30 whether you agree to allow us to depose these individuals or we will ask for further relief in our motion to compel Schwartz' deposition. If you agree, please provide us with dates that each person is available so that we don't run into another situation where someone is leaving the state.

In looking at NUI 3, the documents it requests are the meeting minutes where Plaintiff was sanctioned. During Plaintiff's deposition, the Association supplied exhibits 7 and 10 which are the executive session minutes for Sept. 2013 and Oct. 2013 respectively where it had already been decided that Plaintiff was banned from executive sessions based on her reading of the Martens confession at the Sept. 2013 board meeting. As such, the Association should be able to provide a complete supplemental response without there being a stipulated protective order in place. (If there are more executive minutes that were not produced and are responsive, we can work through that issue but it should not hold up a written response to the interrogatory). As such, please provide the Association's supplemental response to NUI 3 by Wednesday, May 6.

Jacob A. Kubert
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111 West Monroe Street, 17th Floor
Phoenix, Arizona 85003
Telephone: (602) 952-6000
Facsimile: (602) 952-7020

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