

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2015-053091

03/30/2026

HONORABLE QUINTIN CUSHNER

CLERK OF THE COURT  
A. Hayes  
Deputy

R L WHITMER, et al.

ROSS P MEYER

v.

HILTON CASITAS COUNCIL OF CO-  
OWNERS, et al.

DINA G AOUAD  
JPMORGAN CHASE BANK N A  
700 KANSAS LN LA4-7200  
MONROE LA 71203-4774  
ZADOK ELI  
6333 N SCOTTSDALE RD  
CASITA # 18  
SCOTTSDALE AZ 85250  
R COREY HILL  
ROBERT S PORTER  
JUDGE Q CUSHNER

MINUTE ENTRY

The Court has received, reviewed, and considered Plaintiffs R.L. Whitmer and Colleen London's *Plaintiffs' Rule 59(a)(1)(D) and (F) Motion for New Trial*, filed on February 17, 2026; Defendant Hilton Casitas Council of Homeowners and Intervenor Procaccianti AZ II, LP's *Joint Response to Plaintiffs' Rule 59(a)(1)(D) and (F) Motion for New Trial*, filed on March 6, 2026, and *Plaintiffs' Reply in Support of Its Motion for New Trial*, filed on March 18, 2026; and (2) *Procaccianti AZ II, L.P.'s Application for Attorneys' Fees and Costs*, filed on February 13, 2026, and *Plaintiffs' Response to Intervenor's Application for Attorneys' Fees*, filed on March 5, 2026.

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The motion is fully briefed, and the Court does not find that oral argument or an evidentiary hearing would assist in resolution.

Arizona Rule of Civil Procedure 59(a)(1) provides, in pertinent part:

(1) *Grounds for New Trial*. The court may, on motion, grant a new trial on all or some of the issues—and to any party—on any of the following grounds materially affecting that party’s rights: . . .

(D) newly discovered material evidence that could not have been discovered and produced at the trial with reasonable diligence; . . .

(F) error in the admission or rejection of evidence, error in giving or refusing jury instructions, or other errors of law at the trial or during the action. . . .

Ariz. R. Civ. P. 59(a)(1)(D), (F).

Upon review and consideration, the Court finds Plaintiffs have not established grounds for relief under Rule 59(a)(1)(D) or Rule 59(a)(1)(F). Plaintiffs have not shown newly discovered material evidence that could not have been discovered and produced with reasonable diligence, and Plaintiffs have not shown an error of law warranting relief. Plaintiffs also have not shown that the referenced subsequent authority provides a basis to vacate or otherwise disturb the Judgment filed in June 2016 or other orders in this matter.

The Court has also received, reviewed, and considered the pending application for attorney fees and taxable costs filed following the Court’s January 30, 2026 minute entry. The Court denies the pending fee and cost application without prejudice because the Court will allow a consolidated fee and cost application following entry of this Rule 59 ruling addressing fees and taxable costs incurred in both the Rule 60 and Rule 59 briefing. The fee application schedule set in the Court’s January 30, 2026 minute entry is superseded by the schedule set forth below.

Accordingly,

**IT IS ORDERED** denying *Plaintiffs’ Rule 59(a)(1)(D) and (F) Motion for New Trial*.

**IT IS FURTHER ORDERED** denying without prejudice *Procaccianti AZ II, L.P.’s Application for Attorneys’ Fees and Costs* arising from the Rule 60 proceedings.

**IT IS FURTHER ORDERED** that Defendant and Intervenor may file, no later than 20 calendar days after entry of this Order, a consolidated application for attorney fees and taxable costs incurred in connection with the Rule 60 and Rule 59 proceedings pursuant to A.R.S. §§ 12-

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341 and/or 12-341.01. Any response must be filed no later than 20 calendar days after service of the application. No reply may be filed absent leave of Court.