

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2021-050888

01/20/2022

HONORABLE SARA J. AGNE

CLERK OF THE COURT  
J. Holguin  
Deputy

R L WHITMER

R L WHITMER  
6333 N SCOTTSDALE RD # 21  
SCOTTSDALE AZ 85250

v.

HILTON CASITAS HOMEOWNERS  
ASSOCIATION

TIMOTHY D BUTTERFIELD

JUDGE AGNE

MINUTE ENTRY

The Court has received and reviewed Plaintiff's A.R.C.P. Rule 59 Motion to Alter the October 5, 2021, Final Judgment, filed October 20, 2021, as well as subsequent filings related thereto; the Motion is fully briefed.

In contrast to cases like those Plaintiff cites in the Motion, this Court was not required to interpret statutes, nor were they a factor that caused the dispute here. *Cf. Bekelian v. JP Morgan Chase Bank NA*, 246 Ariz. 352, 356 (App. 2019) (contract-based attorney's fees properly denied in case where "the essential basis for the dispute is the interpretation" of a statute).

Instead, despite Plaintiff's protestations, this suit required the Court to interpret the Declaration, which all acknowledge is a contract. (*See* Compl., at para. 13 ("There is no provision in the Declaration that expressly authorizes the board of directors on its own to adopt or amend budgets. . . .")) Therefore,

**IT IS ORDERED denying** the Motion.

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**NOTE:** Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2020-79 requires all individuals entering a court facility to wear a mask or face covering at all times they are in the court facility. With limited exceptions, the court will not provide masks or face coverings. Therefore, any individual attempting to enter the court facility must have an appropriate mask or face covering to be allowed entry to the court facility. Any person who refuses to wear a mask or face covering as directed will be denied entrance to the court facility or asked to leave. In addition, all individuals entering a court facility will be subject to a health screening protocol. Any person who does not pass the health screening protocol will be denied entrance to the court facility.