

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-055080

03/20/2017

HONORABLE AIMEE L. ANDERSON

CLERK OF THE COURT
A. Wood
Deputy

R L WHITMER

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6333 N SCOTTSDALE RD CASITA 21
SCOTTSDALE AZ 85250

v.

HILTON CASITAS HOMEOWNERS
ASSOCIATION, et al.

AUGUSTUS H SHAW IV

MINUTE ENTRY

The Court has read and considered the following:

- Motion to Dismiss (filed February 28, 2017)
- Response to Defendants' Motion to Dismiss (filed March 10, 2017)
- Reply in support of Respondents' Motion to Dismiss (filed March 16, 2017)

Petitioner is seeking to enforce an administrative decision. Pursuant to Ariz. Rev. Stat. Sec. 32-2199.02 the proper venue for a contempt of court hearing (seeking to enforce the administrative decision) is the Administrative Courts, not the Superior Court.

The Court finds that this Court only has the jurisdiction to review an appeal from an Order issued by an Administrative Law Judge. The Superior Court does not have jurisdiction to hear a contempt action over an Administrative Order.

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The Court further finds that this Court has the authority to issue contempt orders on Superior Court Orders, not orders of an Administrative Law Judge.

The Court further finds that this Court has the authority to enforce injunctions. An order issued by an Administrative Law Judge is not an injunction. Therefore, this Court does not have jurisdiction to issue a contempt order on an order issued by an Administrative Law Judge.

THEREFORE,

IT IS ORDERED granting Respondents' Motion to Dismiss Petitioner's Complaint for lack of subject matter jurisdiction pursuant to Ariz. R. Civ. P. 12(b)(1).

IT IS FURTHER ORDERED that counsel for Respondents submit a proposed form of Order, consistent with this ruling, no later than April 14, 2017.

IT IS FURTHER ORDERED granting Respondents request for an award of their costs and attorneys' fees incurred herein against Petitioner.

IT IS FURTHER ORDERED that counsel for Respondents submit a proposed form of order, and supporting affidavits no later than April 14, 2017.