

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-055080

10/25/2018

HONORABLE CYNTHIA J. BAILEY

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

JUDGE BAILEY

MINUTE ENTRY

The Court has read and considered Petitioner's Motion for Leave to File First Amended Complaint filed October 22, 2018, Defendant's Response to Petitioner's Motion for Leave to File First Amended Complaint, filed October 23, 2018 and Petitioner's Reply in Support of Motion for Leave to File First Amended Complaint, filed October 24, 2018 and reviewed the docket in this matter.

Defendant's Response indicated a lack of objection to the filing of the Amended Complaint.

IT IS THEREFORE ORDERED granting Petitioner's Motion for Leave to File First Amended Complaint filed October 22, 2018.

Defendants' Response requested leave to file a Motion to Dismiss Michael Bengson and a request for attorney's fees.

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Plaintiff objects to any leave to file a Motion to Dismiss, based on what he describes as this Court's prior order denying a previous Defendant's February 28, 2017 Motion to Dismiss Defendant Bengson. The February Motion sought to dismiss the case in its entirety due to this Court's lack of subject matter jurisdiction and sought the dismissal of Michael Bergson as a defendant. The Court's March 20, 2017 ruling dismissed the case based on the subject matter jurisdiction claim, without making any findings or orders regarding Michael Bengson. Because the Court of Appeals eventually reversed this Court's dismissal order, it is appropriate that each party be given leave to litigate unresolved issues.

IT IS THEREFORE ORDERED granting Defendants' request for leave to file a Motion to Dismiss regarding Michael Bengson.

It is unclear under what legal theory Defendants request that they be awarded "all" attorney's fees and costs incurred in this matter,

IT IS FURTHER ORDERED denying Defendants' request for attorney fees without prejudice to re-urge when applicable.