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Attorneys for Defendants

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

**WILLIAM M. BROWN, an individual,**

**Plaintiff,**

**v.**

**Case No. CV2017-055475**

**TERRAVITA COUNTRY CLUB,  
INC., an Arizona non-profit  
corporation; STERLING J. LAAVEG,  
President TCC, Inc., and his spouse;  
PAUL DAVID TOLK, Vice President  
TCC Inc., and his spouse; WILLIAM  
H. GREIG, Secretary TCC, Inc., and  
his spouse; MICHAEL T.  
ELLINGTON, Treasurer TCC, Inc.,  
and his spouse; JOHN DOES I-X and  
JANE DOES I-X and their spouses;  
CARPENTER, HAZLEWOOD,  
DELGADO & BOLEN, PLC; JOSHUA  
M. BOLEN 024053; ANJALI J.  
PATEL 028138,**

**Defendants.**

**DEFENDANTS’ OBJECTION TO  
PLAINTIFF’S MOTION TO  
TRANSFER RELATED CIVIL CASE**

Defendants Terravita County Club, Inc.; Sterling J. Laaveg and Jane Doe Laaveg;  
Paul David Tolk and Jane Doe Tolk; William H. Greig and Jane Doe Greig; Michael T.  
Ellington and Jane Doe Ellington; Carpenter, Hazlewood, Delgado, & Bolen, PLC; Joshua  
M. Bolen; and Anjali J. Patel (collectively, “Defendants”) by and through undersigned

1 counsel, hereby object to Plaintiff's, William M. Brown's ("Plaintiff"), Motion to Transfer  
2 Related Civil Case ("Motion") for the reason that the parties and claims in the cases Plaintiff  
3 seeks to transfer under one judge are separate and distinct from one another such that a  
4 transfer will not promote judicial economy. Furthermore, Plaintiff has failed to comply with  
5 the requirements of Rule 3.1(c)(1), Super.Ct.LocalPrac.Rules.  
6

7 This Objection is supported by the pleadings in this matter (CV2017-055475), the  
8 pleadings in Maricopa County Superior Court Case No. CV2017-013317 (the case Plaintiff  
9 seeks to have transferred to the Honorable John R. Hannah), the pleadings in Maricopa  
10 County Superior Court Case No. CV2016-091991 (the case underlying CV2017-013317),  
11 and the following Memorandum of Points and Authorities, all of which are incorporated  
12 herein by this reference.  
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14

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. INTRODUCTION**

17 This matter, CV2017-055475, filed by Plaintiff, seeks a declaratory judgment finding  
18 Defendants in contempt of the final order of the Arizona Department of Real Estate's  
19 ("ADRE") Case No. HO17-16/005, Docket No. 17F-H1716005-REL, for their alleged  
20 willful noncompliance with Arizona law, namely, for allegedly refusing to provide  
21 documents requested by Plaintiff ("Records Request Matter").  
22  
23

24 The matter Plaintiff seeks to transfer into this Records Request Matter was filed  
25 solely by Defendant Terravita Country Club ("TCC") herein, against Anita Bell, an  
26 individual who is not a party to the Records Request Matter, and seeks a declaratory  
27 judgment instructing TCC to deposit the full amount of a judgment entered in Maricopa  
28

1 County Superior Court Case No. CV2016-091991 against TCC and in favor of Ms. Bell,  
2 with the Court and that upon deposit of the judgment amount with the Court, the Court  
3 orders the judgment satisfied (“Judgment Satisfaction Matter”).  
4

## 5 **II. LEGAL ARGUMENT**

6 A party may file a motion requesting a court transfer related cases pending before  
7 different judges to one judge. Rule 3.1(c)(1), Super.Ct.LocalPrac.Rules. A court may grant  
8 the transfer request if the cases “(A) arise from substantially the same transaction or event;  
9 (B) involve substantially the same parties or property; (C) call for determination of  
10 substantially the same questions of law; or (D) for any other reason would entail substantial  
11 duplication of labor if heard by different judges.” *Id.* A request to transfer shall be captioned  
12 with the number of the earliest filed case and heard by the judge assigned thereto. *Id.* A  
13 request to transfer shall also be filed in each affected case. *Id.*  
14  
15

### 16 **A. The cases should not be transferred because the parties and claims are 17 separate and distinct from one another such that a transfer will not 18 promote judicial economy.**

19 As discussed in the introduction hereinabove, this Records Request Matter is a  
20 mechanism through which Plaintiff seeks to enforce Defendants’ alleged breach of an ADRE  
21 order. As this Court is aware, Defendants agreed to again produce the records requested by  
22 Plaintiff and as ordered by the ADRE, despite having previously done so. This Court set a  
23 status conference for October 27, 2017 to confirm that Defendants complied, that Plaintiff is  
24 satisfied, and that no matters remain pending. This Records Request Matter is in the process  
25 of concluding; therefore, there is no need to transfer the Judgment Satisfaction Matter to this  
26  
27  
28 Court.

1 As also discussed in the introduction hereinabove, the Judgment Satisfaction Matter  
2 follows TCC's attempts to satisfy a judgment entered against it and in favor of Ms. Bell in  
3 Maricopa County Superior Court Case No. CV2016-091991. In CV2016-091991, TCC  
4 filed suit against Ms. Bell seeking injunctive relief against her and an order requiring her to  
5 ensure her occupants, guests, and invitees complied with TCC's rules and regulations. TCC  
6 voluntarily dismissed its lawsuit against Ms. Bell, and the Court ordered TCC to reimburse  
7 Ms. Bell her \$237.00 appearance fee. Despite TCC's diligent efforts to tender payment to  
8 Ms. Bell, Ms. Bell refused to accept payment, thereby forcing TCC to file the Judgment  
9 Satisfaction Matter so it could lodge payment of the judgment with the Court and obtain a  
10 satisfaction of the judgment.  
11  
12  
13

14 While Plaintiff is correct that both the Records Request Matter and the Judgment  
15 Satisfaction Matter involve the same property (both Plaintiff and Ms. Bell are record owners  
16 of property located at 6751 East Amber Sun Drive, Scottsdale, AZ 85266 which is a part of  
17 TCC and, as such, Plaintiff and Ms. Bell are both members of TCC) and one similar party  
18 (TCC as Plaintiff in one matter and Defendant in the other), that is where the similarities end.  
19

20 The Records Request Matter involves an issue relating to Plaintiff's rights as a  
21 member of TCC, namely, whether Defendants complied with the ADRE order by providing  
22 Plaintiff the records he requested. Conversely, the Judgment Satisfaction Matter deals with  
23 whether a judgment debtor, in light of a judgment creditor's refusal to accept payment, may  
24 satisfy a judgment by tendering payment to the Court to hold in trust until the judgment  
25 creditor claims the payment. The Judgment Satisfaction Matter is wholly separate and  
26 distinct from Ms. Bell's ownership of property within TCC and status and rights as a member  
27  
28

1 of TCC. While these may have been factors in Case No. CV2016-091991, the Judgment  
2 Satisfaction Matter is purely about judgment debtor and judgment creditor rights,  
3 obligations, and remedies.  
4

5 **B. The cases should not be transferred because Plaintiff failed to comply**  
6 **with the requirements of Rule 3.1(c)(1), Super.Ct.LocalPrac.Rules.**

7 Plaintiff failed to comply with the requirements of Rule 3.1(c)(1),  
8 Super.Ct.LocalPrac.Rules, in filing his Motion. In particular, Plaintiff failed to file his  
9 Motion in both this Records Request Matter and the Judgment Satisfaction Matter. Plaintiff  
10 only filed his Motion in this records request matter denying the parties in the Records  
11 Request Matter the right to either object to or respond to Plaintiff's Motion. In particular,  
12 Ms. Bell is not a party to this Records Request Matter and is, therefore, denied the  
13 opportunity to respond to Plaintiff's Motion.  
14  
15

16 **III. CONCLUSION**

17 For the reasons stated above, Defendants respectfully request that this Court deny  
18 Plaintiff's Motion. In the event Plaintiff's Motion is denied, Defendants further request  
19 that the Court award them their reasonable attorneys' fees and costs expended in  
20 responding to this Motion.  
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1 RESPECTFULLY SUBMITTED this 30th day of October 2017.

2 Carpenter, Hazlewood, Delgado & Bolen, PLC

3  
4 By: /s/ Joshua M. Bolen

5 Joshua M. Bolen 024053  
6 Allison Preston 029346  
7 1400 E. Southern Ave., Suite 400  
8 Tempe, Arizona 85282  
9 *Attorneys for Defendants*

10 **CERTIFICATE OF SERVICE**

11 ORIGINAL of the foregoing electronically  
12 filed this 30th day of October, 2017, with:  
13 Clerk of the Court  
14 Maricopa County Superior Court  
15 [www.AZTurboCourt.gov](http://www.AZTurboCourt.gov)

16 COPY of the foregoing mailed  
17 this 30th day of October, 2017, to:

18 William M. Brown  
19 6751 East Amber Sun Drive  
20 Scottsdale, AZ 85266  
21 *Plaintiff*

22 /s/ Theresa Laubenthal