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TERRAVCC.0155

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.

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.

Case No. CV2017-055475

DEFENDANTS' MOTION TO STRIKE PLAINTIFF'S MOTION TO CONTINUE AND REQUEST FOR EXPEDITED CONSIDERATION

*Assigned to the Honorable
John R. Hannah, Jr.*

Defendants 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 counsel, and pursuant to Rule 7.1(f)(1) Ariz.R.Civ.P., respectfully request the Court to strike and disregard Plaintiff

1 William M. Brown's ("Plaintiff") Motion to Continue and Request for Expedited
2 Consideration¹ ("Sur-Reply").
3

4 In his Sur-Reply, Plaintiff supplements his November 13, 2017 responses to
5 Defendants' Motions to Dismiss with additional information. Plaintiff's Sur-Reply,
6 however, is improper and must be stricken from the record and disregarded by the Court
7 because Defendants Motions to Dismiss are fully briefed and awaiting this Court's ruling.
8
9 The Director Defendants' filed their Motion to Dismiss on October 13, 2017, and the Lawyer
10 Defendants filed their Motion to Dismiss on October 16, 2017. Thereafter, Plaintiff filed his
11 responses to both Motions to Dismiss on November 13, 2017, and Defendants filed their
12 respective replies on November 22, 2017. Under Rule 7.1(a)(3) Ariz.R.Civ.P., Plaintiff is
13 not entitled to a second bite at the apple, and without prior leave of this Court, his Sur-Reply
14 is improper.
15

16 For the reasons stated above, Defendants respectfully request that this Court strike
17 and disregard Plaintiff's Sur-Reply filed December 14, 2017. Defendants further request
18 that the Court award them their reasonable attorneys' fees and costs expended in
19 responding to Plaintiff's Sur-Reply.
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21

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25

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27 ¹ The pleading Plaintiff filed with the Court is entitled, "Plaintiff's Motion to Continue and Request for Expedited
28 Consideration." Plaintiff, however, provided Defendants an additional page stating the pleading as "Plaintiff's SOF
In Support of Its Response (opposition) to Defendants' Motions to Dismiss Director Defendants and Lawyer
Defendants." The body of the pleading addresses the latter title. Defendants, therefore, are treating Plaintiff's
pleading as entitled on the additional page, which is attached hereto as Exhibit A.

1 RESPECTFULLY SUBMITTED this 20th day of December 2017.

2 Carpenter, Hazlewood, Delgado & Bolen, PLC

3
4 By: /s/ Allison Preston

5 Joshua M. Bolen 024053

6 Allison Preston 029346

7 1400 E. Southern Ave., Suite 400

8 Tempe, Arizona 85282

Attorneys for Defendants

9 **CERTIFICATE OF SERVICE**

10 ORIGINAL of the foregoing electronically
11 filed this 20th day of December, 2017, with:
12 Clerk of the Court
13 Maricopa County Superior Court
www.AZTurboCourt.gov

14
15 COPY of the foregoing mailed
16 this 20th day of December, 2017, to:

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

20 William M. Brown
21 1754 Lakeview Estates Drive
22 Coldspring, Texas 77331-5072
Plaintiff

23
24 /s/ Theresa Laubenthal

EXHIBIT A

**William M. Brown
6751 E. Amber Sun Drive
Scottsdale, AZ 85266
(480) 595-9131**

Plaintiff on his own behalf

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

William M. Brown, an individual,

Plaintiff,

**Plaintiff's SOF In Support of Its
Response (opposition) to
Defendants' Motions to Dismiss
Director Defendants and
Lawyer Defendants**

**Case No. CV2017-055475
(Assigned to the Hon. John R.
Hannah, Jr.)**

vs.

**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, LLP; Joshua M. Bolen
024053 and Anjali J. Patel 028138,**