

Pima County Superior Court Trials

THE TRIAL REPORTER of Southern Arizona

December, 2015

12/11/15 - Judge CATHERINE M. WOODS - CV 2014-4104 - LANE (Drue A. Morgan-Birch of Udall Law Firm, L.L.P.) v SONOMA COMMUNITY ASSOCIATION (Douglas W. Glasson of Curl & Glasson, P.L.C.) - BREACH OF CONTRACT - INJUNCTIVE RELIEF. Plntfs, husband and wife, retired, were homeowners in Dfnt association. Plntfs alleged Dfnt assessed Plntfs fifty percent of the cost (\$492) needed to repair and paint a wrought iron fence between Plntfs' property and a common area drainage wash. Plntfs also alleged that all maintenance of the fence was Dfnt's responsibility, and that selection of Plntfs to pay a portion of the repair was arbitrary, capricious, and discriminatory. Additionally, Plntfs alleged Dfnt violated its covenants, conditions, and restrictions, and its actions constituted a breach

of contract. Plntfs sought injunctive relief to ensure Dfnt maintained the fence in the future at its own expense. Dfnt denied liability, advancing the defense that the wrought iron fence was designed and built to be completely located on Plntfs' private lot, and was not part of the common area. Dfnt argued that the covenants, conditions, and restrictions prohibited Dfnt from paying the full cost of repair to improvements located on private property, and required Plntfs and Dfnt to each pay fifty percent of the cost. Dfnt called Robert L. Larson, a surveyor. Prayer: Just and reasonable compensatory damages. Dfnt made a \$250 pretrial offer of judgment (D). (Carrier: State Farm Insurance.) COURT GRANTED DFNT'S MOTION FOR JUDGMENT, AS A MATTER OF LAW.

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