

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-002441

02/26/2024

HONORABLE JAY RYAN ADLEMAN

CLERK OF THE COURT  
L. Gilbert  
Deputy

STRONG COMMUNITIES FOUNDATION OF  
ARIZONA INCORPORATED, et al.

JAMES K ROGERS

v.

MARICOPA COUNTY, et al.

BRETT W JOHNSON

DAVID ANDREW GAONA  
JOSEPH EDWARD LA RUE  
JENNIFER JAYNE WRIGHT  
ROSE WINKELER  
JUDGE ADLEMAN

MINUTE ENTRY

The Court is in receipt of Plaintiffs' Notice of Dismissal, Defendant Maricopa County's response, and Plaintiffs' reply. The Court is familiar with the limited procedural history associated with this case.<sup>1</sup>

The Court finds that oral argument is not necessary to determine this issue.

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<sup>1</sup> The Maricopa County Defendants filed a "Motion for Leave to File Response to Plaintiffs' Notice of Dismissal. In doing so, the Maricopa County Defendants attached their proposed response as Exhibit A to the motion. Without deciding the nature of the dismissal, the Court authorized Defendants' response and ordered Plaintiffs to file a reply brief with respect to their notice of dismissal (*see* Court's minute entry; dated 2/23/24). Plaintiffs have now done so.

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The Maricopa County Defendants have requested this Court to enter a dismissal with prejudice. In doing so, they cite concerns that Plaintiffs are engaged in improper efforts at forum shopping. *See, e.g., Dunn By and Through Dunn v. Superior Court*, 160 Ariz. 311, 317, 772 P.2d 1164, 1170 (App. 1989)(generally discussing efforts to discourage forum shopping by litigants).

In spite of the above, Arizona law indicates that a plaintiff may voluntarily dismiss an action as a matter of right (without a court order) before the defendant serves an answer or files a motion for summary judgment. In doing so, the first dismissal is without prejudice. *See Olewin v. Nobel Manufacturing, LLC*, 254 Ariz. 346, 353, 523 P.3d 413, 420 (App. 2023); Rule 41(a)(1)(B), Arizona Rules of Civil Procedure.<sup>2</sup>

For these reasons,

**IT IS ORDERED** dismissing these proceedings without prejudice;<sup>3</sup> and

**IT IS FURTHER ORDERED DENYING** all requests for attorney's fees and costs arising out of this action.

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<sup>2</sup> Plaintiffs filed their notice of dismissal on February 22, 2024. The notice was consistent with the requirements of Rule 41(a)(1)(A)(i), Arizona Rules of Civil Procedure.

<sup>3</sup> In their response, the Maricopa County Defendants have identified their concerns regarding Plaintiffs' purported efforts at forum shopping (*see* response; at pages 1-4). This Court is not unsympathetic to those concerns. On this limited record, however, a dismissal without prejudice is mandated by the rules of procedure. In the event that Plaintiffs refile a substantially identical action against the Maricopa County Defendants in a different venue, they retain the ability to raise this issue in that new forum.