

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-014083
CV 2020-014248

11/09/2020

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT
K. Ballard
Deputy

LAURIE AGUILERA, et al.

ALEXANDER M KOLODIN

v.

ADRIAN FONTES, et al.

JOSEPH EUGENE LA RUE
SARAH R GONSKI
BRETT W JOHNSON
ROY HERRERA
THOMAS J. BASILE
ROOPALI HARDIN DESAI

COURT ADMIN-CIVIL-ARB DESK
DOCKET-CIVIL-CCC
JUDGE KILEY
JUDGE MAHONEY

RULING

The Court has considered the Motion to Transfer and Consolidate Related Cases (“Motion”), filed by the Secretary of State (the “Secretary”) on 11/8/2020, as well as Plaintiffs’ Notice of Dismissal, filed 11/7/2020.

The Motion is premised on the Secretary’s understanding that the Intervenors’ proposed Answers in Intervention were filed, and thus defeat Plaintiffs’ effort to voluntarily dismiss without prejudice Plaintiffs’ claims in this case pursuant to Rule 41(a)(1)(A)(i). The docket reflects otherwise.

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When Intervenors filed their Motions to Intervene under Rule 24 on 11/5/2020, they complied with the Rule 24(c)(1)(B) requirement that “[a]nyone moving to intervene must ... attach as an exhibit to the motion a copy of the proposed pleading in intervention that sets out the claim or defense for which intervention is sought.” However, Rule 24(c)(2), entitled *Filing and Serving Pleading in Intervention*, directs: “Unless the court orders otherwise, an intervenor must file and serve the pleading in intervention within 10 days after entry of the order granting the motion to intervene.”

This Court ordered granting the two unopposed Motions to Intervene on the record during the Order to Show Cause Return Hearing held on 11/5/2020. However, as of today, 11/9/2020, the docket does not reflect any Answer in Intervention, or any other Answer, or any Motion for Summary Judgment, yet having been filed in this cause. Consequently, **THE COURT FINDS** Plaintiffs had the right to file their Notice of Voluntary Dismissal under Rule 41(a)(1)(A)(i) on 11/7/2020, resulting in dismissal of this cause without need for further Order of the Court.

This cause thus having been dismissed by operation of law upon the filing of Plaintiffs’ Notice of Dismissal on 11/7/2020, **IT IS ORDERED** denying the Secretary’s Motion to Transfer and Consolidate Related Cases as this cause was dismissed before the Motion was filed.

* * * *

PLEASE NOTE: This Division requires that all motions, responses, replies and other Court filings in this case must be submitted individually. Counsel shall not combine any motion with a responsive pleading. All motions are to be filed separately and designated as such. **No filing will be accepted if filed in combination with another. Additionally, all filings shall be fully self-contained and shall not “incorporate by reference” other separate filings for review and consideration as part of the pending filing.**

ALERT: Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2020-79 requires all individuals entering a Court facility to wear a mask or face covering at **all times** while they are in the Court facility. With limited exceptions, the Court will not provide masks or face coverings. Therefore, any individual attempting to enter the Court facility must have an appropriate mask or face covering to be allowed entry to the Court facility. Any person who refuses to wear a mask or face covering as directed will be denied entrance to the Court facility or asked to leave. In addition, all individuals entering a Court facility will be subject to a health screening protocol. Any person who does not pass the health screening protocol will be denied entrance to the Court facility.