

1 FENNEMORE CRAIG, P.C.  
Christopher L. Callahan (No. 009635)  
2 Theresa Dwyer-Federhar (No. 010246)  
Seth G. Schuknecht (No. 030042)  
3 Emily Ward (No. 029963)  
2394 East Camelback Road, Suite 600  
4 Phoenix, AZ 85016-3429  
Telephone: (602) 916-5000  
5 Email: [ccallahan@fclaw.com](mailto:ccallahan@fclaw.com)  
Email: [tdwyer@fclaw.com](mailto:tdwyer@fclaw.com)  
6 Email: [sschuknecht@fclaw.com](mailto:sschuknecht@fclaw.com)  
Email: [eward@fclaw.com](mailto:eward@fclaw.com)

7 Attorneys for Plaintiff  
8 Desert Mountain Club, Inc.

9  
10 SUPERIOR COURT OF ARIZONA

11 MARICOPA COUNTY

12 DESERT MOUNTAIN CLUB, INC.,

No. CV2014-015333

13 Plaintiff,

**JOINT STATUS REPORT**

14 v.

(Assigned to the Hon. David B. Gass)

15 ERIC GRAHAM and RHONA  
GRAHAM, husband and wife,

16 Defendants.  
17

18 Pursuant to the Court Administration's 150 Day Order, filed June 3, 2015, Plaintiff Desert  
19 Mountain Club, Inc. ("Plaintiff" or the "Club") and Defendants Eric and Rhona Graham  
20 ("Defendants" or the "Grahams") submit this Joint Status Report. The parties respectfully request  
21 that the Court postpone the issuance of a scheduling order under Rule 38.1, Ariz. R. Civ. P.,<sup>1</sup>  
22 pending resolution of other dispositive motions currently pending in companion cases, which may  
23 affect these proceedings. The granting of such motions may negate the necessity of setting the  
24 deadlines set forth in Rule 38.1.

25  
26 <sup>1</sup> All references to court procedural rules shall mean the Arizona Rules of Civil Procedure  
unless otherwise indicated.

1           On December 29, 2014, the Club sued the Grahams, seeking a declaration concerning the  
2           respective rights and obligations under the parties' contract. Complaint ¶¶ 29-34. The complaint  
3           also included a claim for the Grahams' breach of that contract. Complaint at ¶¶ 35-41. The Club  
4           alleges that the Grahams have unilaterally and improperly attempted to resign their Club  
5           membership, in breach of their contractual obligations, and that the Club has suffered damages as  
6           a result of the Grahams' breach.

7           Simultaneous with the filing of its lawsuit against the Grahams, the Club filed two other  
8           complaints against other Club members who have engaged in similar conduct, albeit under  
9           different contracts with the Club, specifically, CV2014-015334 (the "Clark lawsuit") and  
10          CV2014-015335 (the "[redacted] lawsuit"). The defendants in the Clark and the [redacted] lawsuits are  
11          represented by the same counsel (Daryl M. Williams) who represents the Grahams in this matter.  
12          The Clark and the [redacted] lawsuits have been consolidated before the Honorable Dawn M. Bergin.  
13          On August 21, 2015, Judge Bergin heard oral argument in the [redacted] lawsuit (CV2014-015335)  
14          on the [redacted] motion for judgment on the pleadings and the Club's motion for summary  
15          judgment. Judge Bergin took both motions under advisement. Judge Bergin's ruling on these  
16          motions may impact this litigation. Within 30 days of Judge Bergin's decision, the parties will  
17          advise this Court, in writing, on their respective positions concerning whether Judge Bergin's  
18          determination has any preclusive effect on these proceedings in a joint Rule 38.1 report.

19          A brief summary of the procedural background of this case further supports the requested  
20          postponement as follows:

- 21                 • December 29, 2014: The Club files its complaint against the Grahams.
- 22                 • May 14, 2015: The Grahams are served with the complaint, summons, etc., in  
23                         Scotland, in accordance with Scottish law.
- 24                 • June 23, 2015: The Club files an application for default against the Grahams.
- 25                 • June 24, 2015: Daryl Williams files a notice of appearance on behalf of the  
26                         Grahams.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

- June 25, 2015: The Grahams file a motion to dismiss the Club’s complaint.
- July 15, 2015 The Club files a response to the Grahams’ motion to dismiss.
- July 21, 2015: The Court denies the application for default against the Grahams.
- August 5, 2015: The Court denies the Grahams’ motion to dismiss.
- August 18, 2015: The Grahams file their answer to the Club’s complaint.
- The parties are engaged in ongoing discovery.

Given the foregoing, it is clear that the parties have not requested a postponement of their Rule 38.1 obligations for purposes of delay.

Therefore, the parties respectfully request that the Court postpone the filing of any Rule 38.1 joint report until 45 days after Judge Bergin issues her decision in the Fabian lawsuit on the motion for judgment on the pleadings and the Club’s motion for summary judgment. The parties further request that Court notify Court Administration of the postponement so that this case will not be placed on either the Dismissal or Inactive Calendar.

DATED this 24th day of September, 2015.

FENNEMORE CRAIG, P.C.

By /s/ Christopher L. Callahan  
Christopher L. Callahan  
Theresa Dwyer-Federhar  
Seth G. Schuknecht  
Emily Ward  
Attorneys for Plaintiff  
Desert Mountain Club, Inc.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Daryl M. Williams

By /s/ Daryl M. Williams (with permission)  
BAIRD, WILLIAMS AND GREER, LLP  
Attorneys for Defendants  
Eric and Rhona Graham

1 ORIGINAL OF THE FOREGOING  
electronically filed this 24th day of September, 2015.

2  
3 Copy transmitted via eFiling system to:  
The Honorable David B. Gass

4 Copy of the foregoing mailed to:

5 Civil Court Administration  
6 Maricopa County Superior Court  
125 W. Washington Street  
Phoenix, AZ 85003-2243

7  
8 Daryl M. Williams  
Baird, Williams and Greer, LLP  
6225 N. 24<sup>th</sup> Street, Suite 125  
9 Phoenix, AZ 85016  
Email: [darylwilliams@bwglaw.net](mailto:darylwilliams@bwglaw.net)  
10 *Attorneys for Defendants Eric and Rhona Graham*

11  
12 /s/ Phyllis Warren

13 TDWYER/10828546.2/029730.0009

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26