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3	BAIRD, WILLIAMS & GREER, L.L.P. 6225 NORTH 24 th Street, Suite 125		
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6	Daryl M. Williams (004631) darylwilliams@bwglaw.net Attorneys for Tomas and Barbara Clark		
7	IN THE SUPERIOR COURT OF THE STATE OF ARIZONA		
8	IN THE SOLERIOR COORT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA		
9			
10	Desert Mountain Club, Inc.,) No. CV2014-015334	
11	Plaintiff,) Answer	
12	VS.		
13	Thomas Clark and Barbara Clark, husband (Assigned to the Honorable Dawn Bergin) and wife,		
14	Defendants.	}	
15	Defendants admit, deny, and allege as follows:		
16	1. Admit.		
17	2. Admit that Thomas Clark and Barbara Clark are husband and wife and acted with		
18	regard to the transactions and event and occurrences involved in this law suit on behalf of their		
19	marital community, but all other factual allegations in paragraph 2 are denied.		
20	3. Admit.		
21	4. Admit.		
22	5. Deny.		
23	6. Admit.		
24	7. Any factual allegations in this paragraph are denied.		
25	8. The agreement speaks for itself; any other factual allegations in paragraph 8 are		
26	denied.		
27	9. Any factual allegations in paragraph 9 are denied. Exhibit B to the complaint is a copy		
28	of the July 1, 1994, bylaws.		

- 10. Deny.
- 11. A copy of the July 1, 1994, deferred equity membership plan is attached as exhibit C to plaintiff's complaint, but all other factual allegations set forth in paragraph 11 are denied.
- 12. These answering defendants are without knowledge or information sufficient to form a belief as to any factual allegations contained in paragraph 12, which are therefore denied.
 - 13. Denied.
- 14. The March 31, 2004, bylaws are attached as exhibit D, but all other factual allegations contained in paragraph 14 are denied.
- 15. The March 31, 2004, bylaws speak for themselves. Any factual allegations contained in paragraph 15 are denied.
- 16. The March 31, 2006, bylaws are attached as exhibit E to plaintiff's complaint, although the order of the document pagination is incorrect. All of the factual allegations contained in paragraph 16 are denied.
- 17. The March 31, 2006, deferred equity membership plan is attached as exhibit F to plaintiff's complaint, but all other factual allegations of paragraph 17 are denied.
- 18. The first sentence of paragraph 18 is admitted, but these defendants are without knowledge or information sufficient to form a belief as to the second sentence of paragraph 18, which is, therefore, denied.
- 19. Defendants executed the document attached as exhibit G to plaintiff's complaint. The document speaks for itself. All other factual allegations of paragraph 19 are denied.
- 20. Bylaws effective December 31, 2010, are attached to plaintiff's complaint as exhibit H. It is admitted that these bylaws became effective December 31, 2010, but all other factual allegations of paragraph 20 are denied.
- 21. It is admitted that bylaws effective March 19, 2012, are attached as exhibit I to plaintiff's complaint, but all other factual allegations contained in paragraph 21 are denied.
- 22. It is admitted that bylaws effective July 1, 2013, are attached as exhibit J to plaintiff's complaint, but all other factual allegations contained in paragraph 22 are denied.

- 24. It is admitted that defendants resigned their membership in June 2013 and confirmed that resignation in January 2014, and that a copy of defendants' January 14 letter of resignation is attached as exhibit L to the complaint. The letter speaks for itself. All other factual allegations of paragraph 24 are denied.
 - 25. Admit.

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- 26. It is admitted that exhibit M is a copy of bylaws effective August 1, 2014, but all other factual allegations of paragraph 26 are denied.
 - 27. Deny.
- 28. The August 1, 2014, bylaws speak for themselves; all other factual allegations of paragraph 28 are denied.
- 29. Answering paragraph 29 of plaintiff's complaint, these defendants incorporate by this reference their answers to the respective allegations incorporated into this paragraph by the plaintiffs.
- 30. Deny.
 - 31. Deny.
 - 32. Admit.
 - 33. Deny.
 - 34. Deny.
 - 35. Answering paragraph 35 of plaintiff's complaint, these defendants incorporate by this reference their answers to the respective allegations incorporated into this paragraph by the plaintiffs.
 - 36. Deny.
 - 37. Deny.
 - 38. Deny.
- 28 39. Deny.

- 40. Deny.
- 41. Admit.
- 42. The fundamental assumptions underlying the relationship between the plaintiff and the defendants have failed, rendering any contract between the parties unenforceable.
- 43. The plaintiff has failed to act in good faith so far as the defendants' equity position in the Desert Mountain Golf Club is concerned, diminishing its value, and has acted in a unilateral fashion that inequitably and unconscionably purports to deprive the defendants of their freedom to be disassociated from this voluntary club.
- 44. The termination fees, dues, and assessment sought by the plaintiff are unconscionable in the context of market realities and the obligations of the plaintiff to preserve the defendants' equity in the golf club.
- 45. The bylaws that form the basis of the plaintiff's complaint were not properly enacted or amended to the extent that they have compromised the rights, equity, and ownership interest of the defendants or purport to do anything other than provide for the regulation or management of the affairs of the plaintiff.
- 46. The termination fees and ongoing payment of dues constitutes an unenforceable penalty.
 - 47. Notices regarding termination fees were ineffective.
- 48. The collection of the termination fee and dues post-resignation is contrary to the policy and statutory authority of a non-profit corporation.

WHEREFORE, judgment is demanded as follows:

- A. Declaring the contract on which plaintiff sues unenforceable;
- B. Dismissing plaintiff's monetary claims against these defendants with prejudice;
- C. Awarding these defendants costs, attorneys fees, and interest on all sums awarded; and
- D. For such other relief as is appropriate.

Dated this 23rd day of March 2015.

/s/ Daryl M. Williams
Daryl M. Williams
Baird, Williams & Greer, LLP
6225 North 24th Street, Suite 125

1		Phoenix, Arizona 85016 Attorneys for plaintiff
2	Original acided with the Clark's ECE	Timethey's for planters
3	Original eFiled with the Clerk's ECF filing system this 23rd day of March, 2015	
4	Copy mailed this same day to:	
5	The Honorable Dawn Bergin Maricona County Superior Court	
6	Maricopa County Superior Court 201 W. Jefferson (CCB #7D) Phoenix, AZ 85003-2243	
7	and copies mailed this same day to:	
8	·	
9	Christopher L. Callahan Seth G. Schuknecht	
10	Fennemore Craig, P.C. 2394 E. Camelback Rd., Suite 600	
11	Phoenix, AZ 85016-3429 <u>ccallahan@fclaw.com</u>	
12	Attorneys for plaintiff	
13	/s/ Diana L. Clark	
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