

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-000545

01/20/2023

HONORABLE JOAN M. SINCLAIR

CLERK OF THE COURT
S. Motzer
Deputy

WENDY H WALKER, et al.

FRANCIS J SLAVIN

v.

CITY OF SCOTTSDALE

SCOT L CLAUS

DANIEL J SLAVIN
HOLLY M ZOE
VAIL C CLOAR
JUDGE SINCLAIR

MINUTE ENTRY

East Court Building – Courtroom 911

10:59 a.m. This is the time set for an Order to Show Cause Return Hearing. Plaintiffs are represented by counsel, Daniel J. Slavin and Francis J. Slavin. Plaintiffs Kristy Jackman, Wendy H. Walker, and Vance E. Walker are also present. Defendant is represented by counsel, Scot L. Claus, Holly M. Zoe, and Vail C. Cloar. All parties appear via Court Connect.

A record of the proceedings is made digitally in lieu of a court reporter.

Counsel for Defendant states that service of process was effectuated on the Defendant.

The Court verifies that no counsel for any potential intervenor is in attendance.

Discussion is held regarding the status of the case moving forward.

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Counsel for Plaintiffs indicates that he wishes to have a temporary stay now and a preliminary stay in place throughout the duration of litigation.

Counsel for Defendant states that he has emailed his Response to the Court and opposing counsel and, additionally, that he intends to file a motion to dismiss.

Counsel for Plaintiffs addresses the Court, stating that he will be prepared for the forthcoming 12(b)(6) motion from counsel for Plaintiffs.

The Court states that at this time only the temporary issue will be addressed. Counsel for both sides indicate that they are prepared to argue the temporary stay issue today.

Argument is presented to the Court.

Based on the foregoing,

IT IS ORDERED taking this matter under advisement.

The Court states that it will issue its ruling once it has the opportunity to review everything that was submitted by the parties.

11:56 a.m. Matter concludes.

Later:

Plaintiffs base their claim primarily on A.R.S. §9-516 (C) which requires a city or town that has *rendered utility services* outside of its boundaries to continue those services “as long as such city or town owns or controls such utility.” The fact that commercial water haulers, or individual Rio Verde Foothills (“RVF”) residents, hauled water for use in the RVF area from the Scottsdale Standpipe (located within the boundaries of the City of Scottsdale) does not mean that Scottsdale rendered utility services to RVF residents. RVF residents are not residents of the City of Scottsdale.

Plaintiffs have not provided evidence of irreparable harm. There has been no demonstration that the Plaintiffs are unable to obtain water at all from any source. The Court does not believe given the language of the statute noted above that Plaintiffs have shown a strong likelihood of success on the merits. Loss of water from Scottsdale to persons living outside the city’s boundaries is a hardship to Scottsdale. Given the current drought conditions in the area, loss of water to anyone is a hardship. But the Plaintiffs have not shown that they are unable to access water at all. They just cannot access it from the Scottsdale Standpipe at this time.

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Water is life in Arizona. The Court appreciates the difficulties inherent in allocating dwindling water resources between competing claimants. This is a function of governmental leaders and entities. This Court cannot, and should not, make water policy decisions in lieu of the appropriate authorities. Therefore,

IT IS ORDERED denying the Plaintiffs' request for a temporary stay.