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2020 MAR 18 PM 3:13

BY: CAR

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS  
THIRD DIVISION

HOT SPRINGS VILLAGE PROPERTY  
OWNERS' ASSOCIATION

PLAINTIFF

VS.

NO. 63CV-19-292

PCBS, L.L.C.

DEFENDANT

**MOTION TO WITHDRAW JULY 5, 2019, MOTION FOR SUMMARY JUDGMENT**

Hot Springs Village Property Owners' Association ("HSVPOA"), by and through its attorneys, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. ("Mitchell Williams"), and for its Motion to Withdraw July 5, 2019, Motion for Summary Judgment ("Motion to Withdraw"), states:

1. On September 30, 2019, this Court granted its *Order Granting Motion for Substitution of Counsel*, substituting Mitchell Williams as counsel of record for HSVPOA.
2. Prior to this Court's *Order Granting Motion for Substitution of Counsel*, existing counsel had filed a motion for summary judgment on behalf of HSVPOA, to which Defendant responded.
3. As far as undersigned counsel can tell from the files received from prior counsel and the Court's docket, no discovery was conducted prior to prior counsel's filing of the pending motion for summary judgment.
4. Discovery is necessary to determine when Defendant purchased lots in Hot Springs Village, how long it owned them, and when it sold them.

5. On March 3, 2020, Defendant requested a hearing on the pending motion for summary judgment, and a hearing is currently set for April 28, 2020.

6. Counsel for Defendant has indicated that he will oppose this Motion to Withdraw. As support for the opposition to the Motion to Withdraw, counsel for Defendant stated that "PCBS does not own any properties in the HSVPOA." This statement contradicts the position taken in its Response to Motion for Summary Judgment, which means there are factual issues that need to be investigated in discovery due to an alleged change in ownership status of the lots that PCBS owned in Hot Springs Village.

7. Based upon substitution of counsel and opposing counsel's representation regarding the change in ownership of the lots since its Response to Motion for Summary Judgment was filed, HSVPOA files this Motion to Withdraw, respectfully requesting that this Court grant its Motion to Withdraw in order to allow undersigned counsel to conduct discovery and otherwise pursue its claims against Defendant in a manner it believes to be in the best interest of its client.

8. HSVPOA also respectfully requests that the hearing currently set for April 28, 2020 on its Motion for Summary Judgment be cancelled.

9. HSVPOA respectfully requests that its right to file a future motion for summary judgment be reserved, to the extent the investigation of Defendant's alleged defenses and representations warrant such filing.

**WHEREFORE**, HSVPOA respectfully requests that this Court grant its Motion to Withdraw; enter an Order withdrawing HSVPOA's pending motion for summary judgment, reserving HSVPOA's right to file a future motion for summary judgment, and removing the

hearing currently scheduled for April 28, 2020 from the docket; and for all other just and proper relief to which it is entitled.

Respectfully submitted,

**MITCHELL, WILLIAMS, SELIG,  
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By: \_\_\_\_\_

Christopher A. McNulty (AR Bar No. 2008198)  
Matthew L. Brunson (AR Bar No. 2016214)  
*Counsel for Hot Springs Village Property Owners'  
Association*

### CERTIFICATE OF SERVICE

I, Matthew L. Brunson, do hereby certify that on the 18<sup>th</sup> day of March, 2020, a copy of the foregoing was sent *via* electronic mail and regular mail, postage prepaid, to the following:

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Matthew L. Brunson

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Gail Cutting  
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