



***Update: Corbin McNeill's complaint against The Boulders' Owner***

Corbin McNeill and his primary internal legal advisor, Mark Warnquist spoke to members via Zoom earlier today to provide an update on Corbin's lawsuit. We apologize that there were some technical issues and not all of you may have been able to join the meeting.

Members have been kept informed via BMAC's emails, however some details need more explanation, which is the intent of a Zoom update. Here's a summary of that meeting.

Members were reminded that this is a complex lawsuit, based on Bylaws that favor the Owner. Nonetheless, as the Bylaws are studied, analyzed and more fully understood, the confidence Corbin and his team have in the their arguments has grown.

Corbin mentioned that he's recently met several Members who have joined the Boulders under the 2023 by-laws. They want the same thing we all want - a first-class club. When they decided to join the Boulders, their only choice was to join under those 2023 Bylaws. Recently, these Members have experienced what we are all too familiar with – things that were verbally promised were taken away. These actions, along with the terrible condition of the North Course are continuing signals of a lack of respect for Members, new or old. Corbin's lawsuit will benefit all members, no matter when you joined, with its RIP goal:

- Restoration of the privileges we enjoyed.
- Investment in the club - golf courses, tennis, and pickleball courts and facilities, to achieve and maintain a first-class club.
- Prevention of an event similar to this happening in the future.

Mark then outlined recent and upcoming developments.

The parties exchanged their Disclosures of Witnesses and Documents. This identifies the persons each party believes to have information relevant to the case.

We're now in the Discovery phase, when you discover everything you can about your adversary's case. Parties do that using a number of different methods.

- Requests for production, for example, every email, document, memo, correspondence, note, spreadsheet or document addressing key topics.
- Interrogatories - written questions such as: identify every witness and every document you will rely on for specific arguments.
- Requests for admission - for example, admit that the 12 pickleball courts are replacements of 3 tennis courts.
- Subpoenas: To get documents from third parties – meaning other than the Boulders.
- Depositions: 10 for each side, but may be able to ask for more.

The other key development in the case is that Corbin's team is in the process of filing a series of motions for partial summary judgment that ask the judge to rule on discrete topics versus decide the entire case. These motions must be structured very precisely to raise only legal issues for the judge to resolve. If the motions raise fact issues (that require evidence,) the judge will likely rule against us and say we need to have a jury resolve those fact issues.

To that end, these motions will be focused on legal interpretations of the Bylaws.

- There will be a Motion that says Boulders breached the 2008 Bylaws in a number of ways when they created the 2023 Bylaws.
- There will be a motion that says Boulders breached the Bylaws because – for a number of years – it is indisputable that they did not retain an agronomic expert to confirm that the golf courses are comparable to other first class clubs in metro Phoenix, as required by the Bylaws.
- Additionally, in the proposed scheduling order, CS said the issue here is whether the club is first class *given the dues that Members pay*. We'll file a motion that says there is no qualifier of first class in the Bylaws. First class means first class, and Boulders cannot water down its obligations and try to change the intent of that key provision of the Bylaws.

There are other motions in the works that may require some discovery before they can be ready to file.

Once these motions are filed, Boulders will have 30 days to respond. Then Corbin has 14 days to reply. There's a good chance Judge McNamee will hold a hearing on these motions, but that is up to him. Given the holidays and Judge McNamee's schedule, there may not be a final decision on these motions until January or February of 2025.

If these motions are won, there are a number of important implications for the case, including the following potential / possible rulings that:

- the 2023 Bylaws are invalid because they are a breach of the 2008 Bylaws,
- Boulders breached the Bylaws in a number of ways,
- first class means first class, and Boulders is held to the highest standard regardless of the dues that Members pay
- 2008 members are entitled to pickleball with no additional fees because the pickleball courts are part of the "club facilities" that we all pay for and are entitled to enjoy.
- 2008 members are entitled to alternating courses because that is the course of conduct that we've had for many years, and that course of conduct defines the contract between members and Boulders.

These all have significant implications for the case, and that's just the beginning. There will be more as we move through Discovery.

Important to note that Boulders cannot appeal these decisions until the end of the case. Also they cannot undermine these rulings at trial. If these motions succeed, Boulders can no longer say that they did everything right by the Bylaws.

The litigation process takes time. The Discovery phase has two parts: Fact discovery and Expert discovery.

Fact discovery involves all the methods I mentioned before, which all take time. Usually, you get the key documents first – that takes months. In this case probably 3-4 months. Then you start taking depositions of witnesses. Each one is important so each requires preparation, and must be scheduled. The judge's order allows 10 depositions for each party, each ranges from 4 - 7 hours. And you can ask for more. This process takes several months. That's why our fact discovery is set to take until next June – and that's very fast.

Expert discovery - after fact discovery, Corbin's team, as the Plaintiffs, identify experts they will use and provide a summary of their opinions – in the form of an expert report. Defendant then reviews that, and sets the experts for depositions. There will likely be 2-3 experts. That takes time. Then Defendant gets to identify their experts. They prepare expert reports, and then we depose their experts. Then there's an opportunity for us to submit supplemental expert reports. That's why the expert discovery phase isn't over until late next year.

Then, we set a trial date and both sides file motions to position themselves as best they can for trial.

Based on the size of the Legal Defense Fund and the current legal expense rate and expected increases in this phase, funding appears sufficient into Spring of next year. Then depending upon where the lawsuit stands there may be a further solicitation. Corbin pledged his personal commitment to make a sizable contribution. Just as his RIP goal of Restore, Invest and Prevent simply defines his objective, Corbin's goal with respect to fundraising is simply to see every Member make some donation to the fund. This would demonstrate that we stand together and remain united – that everyone is in.

Corbin thanked Members for their continued support, and urged Members to stay united and patient.

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**Mark your calendars!**  
**Hear from Corbin McNeill in person at the**  
**Boulders Members Association Town Hall Meeting**  
**Friday, November 8, at 8:30 am**  
**in the Tohono room at El Pedregal**

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## Legal Enforcement Fund

**To support Corbin McNeill's efforts to enforce our contract - the 2008 Bylaws -**  
with a donation to the **Legal Enforcement Fund,**

Send your check made out to **Gallagher and Kennedy Client Trust** to  
Gallagher & Kennedy,  
2575 E. Camelback Road, Suite 1100, Phoenix, AZ 85016-9225  
Attn: Dominick San Angelo

**New contributions are always welcome and greatly appreciated.**  
**Any unused funds will be refunded.**

[Visit the BMA Website](#)

Boulders Members Association | 34631 N Tom Darlington Drive | Scottsdale, AZ 85266 US

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