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Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

LAVEEN MEADOWS HOMEOWNERS'
ASSOCIATION, INC., an Arizona
non-profit corporation,

Plaintiff,

vs.

CARLOS MEJIA, a married man, as his sole
and separate property; STATE OF
ARIZONA, a governmental entity;
LEXINGTON NATIONAL INSURANCE
CORPORATION; US IMMIGRATION
BONDS AND INSURANCE SERVICES,
INC.; UNITED STATES OF AMERICA,
DEPARTMENT OF THE
TREASURY-INTERNAL REVENUE
SERVICE; THE UNKNOWN HEIRS AND
DEVISEES OF ABOVE NAMED
DEFENDANTS, IF DECEASED,

Defendants.

No. CV2016-094391

SUPPLEMENTAL APPLICATION FOR
AMOUNT OF ATTORNEY FEES

Plaintiff, by and through counsel undersigned, hereby Supplemental Application for Amount of Attorney Fees. Plaintiff previously filed the original Application for Amount of Attorney Fees, and said application is hereby incorporated herein by reference. As a result of the additional work Defendant Mejia ("Defendant") and his counsel caused in

1 these proceedings, Plaintiff respectfully moves this Court for a total award of attorney's
2 fees in an amount not less than \$16,340.00 (including the \$4,190 requested in the original
3 fee application, together with an additional \$12,300.00 as set forth in the Supplement
4 Affidavit filed by Plaintiff).
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6 At the eleventh hour, after default had been entered and after Plaintiff agreed to a
7 payment plan proposed by Defendant, Defendant failed to follow through with the
8 proposed payment agreement and instead hired counsel to avoid payment of a substantial
9 portion of his obligations. Defendant, presumably upon advice of counsel, made a partial
10 payment on the eve of the original default hearing and then argued to the Court that
11 foreclosure was no longer an available remedy. Defendant attempted to set aside the entry
12 of default and has asked the Court to consider legal arguments pertaining to whether or not
13 foreclosure under a statutory remedy is available. Defendant has consistently ignored
14 other theories of recovery raised by Plaintiff and has instead focused entirely on a statutory
15 scheme that allows for foreclosure. Defendant filed references in pleadings that this Court
16 has struck from the record due to the inappropriate nature of the citations contained in the
17 pleadings. When Defendant's counsel was asked by the Court at the hearing held on June
18 2, 2017, whether counsel had attempted to discuss any of the charges that Defendant may
19 have questioned, counsel responded that he had not. In fact, he claimed that taking such
20 an approach was premature and that instead of simply asking for an explanation of the
21 ledger, the Court should set aside the default and allow Defendant to conduct discovery by
22 taking depositions, interrogatories, requests for admission, etc. As further set forth in the
23 Motion to Strike filed by Plaintiff which was granted by the Court, Defendant continues to
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1 file pleadings in this matter for the purpose of delay and harassment, without a good faith
2 basis for making the arguments and ignoring other equally important arguments.

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4 Another example of Defendant's attempt to prolong these proceedings is in relation
5 to the hearing memorandum filed by Defendant, even after being instructed by the Court
6 that no further briefing was necessary. At the oral argument on June 2, 2017, Defendant
7 asked the Court procedurally what would happen next. The Court clearly explained that
8 as allowed by the Rules of Civil Procedure, an evidentiary hearing would be held where
9 Defendant would have a chance to contest the amount of damages. Defendant's counsel
10 pushed the Court, and asked how the Court would evaluate the legal arguments raised by
11 Defendant. The Court again advised Defendant's counsel that rules regarding evidentiary
12 hearings as to damages are spelled out in the Rules of Civil Procedure, that the Court
13 understood the legal arguments raised and briefed, and that no further briefing was
14 necessary.
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17 Instead of adhering to the Court's instructions at the prior hearing, Defendant filed a
18 new legal memorandum, once again reiterating his position in relation to the statutory lien,
19 but clearly ignoring any conflicting case law, statutory law and contractual provisions that
20 discredited the arguments, the same as had been done previously. This required Plaintiff to
21 file its own hearing brief in order to establish the record that Defendant's ongoing attempts
22 to protract this litigation by refusing to acknowledge the clear language of various statutes,
23 contractual provisions, case law and Rules of Civil Procedure should not be condoned, but
24 should be sanctioned.
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27 This Court has already stricken from the record inappropriate references to Arizona
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1 Superior Court cases. By granting Plaintiff's Motion to Strike, it was made clear that
2 statutory damages could be available pursuant to A.R.S. §12-349. Instead of recognizing
3 the Court's frustration with Defendant, Defendant elected to disregard additional
4 admonitions of the Court and has yet to seek clarification regarding any entries on the
5 ledger and has also continued to file legal memoranda notwithstanding the Court's specific
6 instructions to the contrary.
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9 At the time Defendant originally agreed to a payment plan in October 2016, the
10 amount of attorney fees for this action totaled \$2,235.00. When Defendant failed to honor
11 his proposed payment plan, Plaintiff was required to resolve outstanding issues in relation
12 to additional defendants and it had to default Defendant. Nevertheless, if no objection had
13 been raised by Defendant's counsel even at that stage, default judgment likely would have
14 been entered with attorney fees totaling just \$4,190.00. Once Defendant's counsel
15 became involved, the attorney fees have escalated approximately eight fold, largely due to
16 the approach taken by Defendant after hiring counsel.
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19 As previously noted, the CC&R's (the contract between the parties hereto) provide
20 in Article 8, Section 8.2 of the that all assessments, interest, reasonable attorney fees and
21 other charges, imposed upon homeowners in the Laveen Meadows Homeowners'
22 Association community, including Defendant, are the personal obligation of each such
23 homeowner as well as a lien against the owner's individual unit. A copy of this provision is
24 once again attached hereto as Exhibit "B" for ease of reference. Consequently, pursuant to
25 the contractual agreement between the parties, Defendant is responsible for reasonable
26 attorney fees and costs incurred by Plaintiff in pursuing this matter.
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1 Plaintiff has not requested oral argument on this matter, as additional briefing or
2 argument on this matter would necessarily increase the legal fees request. Plaintiff
3 reserves the right, however, to increase its attorney fees request in the event Defendant
4 objects to the fee request and/or request oral argument on the matter. Furthermore,
5 Plaintiff believes that at least a portion of the award requested herein may be awarded
6 pursuant to A.R.S. §12-349 as a result of the unnecessary delays and arguments raised by
7 Defendant and his counsel.
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9
10 DATED this 19th day of June, 2017.

11 MAXWELL & MORGAN, P.C.

12
13 By 
14 Brian W. Morgan, Esq.
15 4854 East Baseline Road, Suite 104
16 Mesa, Arizona 85206
17 Attorneys for Plaintiff

18 COPY of the foregoing e-filed
19 this 19th day of June, 2017.

20 COPY of the foregoing mailed
21 this 19th day of June, 2017, to:

22 Jonathan A. Dessales, Esq.
23 5353 North 16th Street, Suite 110
24 Phoenix, Arizona 85016
Attorney for Defendant Carlos Mejia

25 Lexington National Insurance Corporation
26 c/o statutory agent, Brian J. Frank
27 11426 York Road
28 Cockeysville, MD 21030
Defendants Pro Se

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U.S. Immigration Bonds and Insurance Services Inc.
c/o statutory agent, Jeremy Wolf
114 SW 10th Street, Suite C
Fort Lauderdale, FL 33315
Defendants Pro Se

