

ORIGINAL

AUG 04 2017 FILED 10:00 AM
MICHAEL K. JEANES, Clerk
By *[Signature]*
T. Nestor-Donohue, Deputy

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9 CHAD M. GALLACHER - STATE BAR No. 025487
10 *Attorneys for Plaintiff*

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

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

16 Plaintiff,

17 vs.

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

Defendants.

No. CV2016-094391

JUDGMENT ON FORECLOSURE

(Lien Foreclosure)

23 This matter having come regularly on Plaintiff's Application for Judgment by Default *
24 against Defendants Carlos Mejia, a married man, as his sole and separate property, Lexington
25 National Insurance Corporation; US Immigration Bonds and Insurance Services, Inc.
26 (collectively "Defendants"), and default of said Defendants having been duly entered; the
27 State of Arizona and the United States of America, Department of the Treasury-Internal

* And the Court has received all of the pending Supplemental Applications
for Attorney's fees and costs and Objections to the request for default judgment, the
requested principal amounts, attorney's fees and costs and Responses and Pre-hearing
memorandums, and having fully considered them all. (17)

1 Revenue Service having been dismissed; the same is hereby confirmed and Plaintiff having
2 proven the material allegations of the Complaint, and finding pursuant to Rule 54(b), ARCP,
3 that there is no just cause or reason for delay,
4

5 IT IS ORDERED that Plaintiff have judgment against Defendants as follows:

*My Defendant
Carlos Mejia*

6 1. The Court finds that there is an indebtedness due and owing to Plaintiff under
7 the contract between the parties (CC&R's) and statutes, and that all such amounts are secured
8 by a lien against the Property (identified below) for:
9

10 Lot 63, of LAVEEN MEADOWS - PARCEL 2, according to the plat of
11 record in the office of the County Recorder of Maricopa County, Arizona,
12 recorded in Book 719 of Maps, Page 13,

13 aka 7824 South 73rd Lane, Laveen, AZ 85339.

*-\$2152.08 (a negative amount) **

14 a. The principal sum in the amount of \$8,843.48, as of 6/20/17 plus late
15 charges of \$15.00 per month, commencing April, 2017 *if incurred during redemption period;*
16 underlying Complaint, with additional ^{assessments} amounts accruing January 1, 2018, pursuant to the
17 contract and A.R.S. § 33-1807(A), in an amount not less than ^{\$46.00 per month} ~~\$552.00~~, plus monthly late
18 charges of \$15.00 *during the redemption period;*

19 b. Prejudgment interest from May 11, 2016 at the rate of ~~\$2.26 per diem;~~
20 *(10% per annum);*

21 c. Plaintiff's costs herein of \$1012.²⁵ ****, including the costs of foreclosure
22 and title search, plus accruing costs not otherwise addressed herein upon application; and *(motion to the Court when occurred)*

23 d. Attorney fees in the amount of \$11,190.⁰⁰ to bring this action and to *(motion to the Court when occurred)*
24 resolve the dispute, plus accruing fees not otherwise addressed herein upon application; and

25 e. Post Judgment interest on ^{the principal} all amounts awarded herein at 10% per annum
26 pursuant to Section 8.2 of the CC&Rs *and on the attorney's fees and costs at 5.25%*
27 *per annum.*

28 2. As to ^{all of} these Defendants, ^{named in this order} the Court finds that said sums are secured by a lien

* There is a ~~10%~~ monetary judgment of \$1144.50 from a lower court (9/26/12)
that may create an additional lien on the property as well. Also, the Court will not grant
the amounts between the lower court judgment and May 11, 2013, the 3yr statute of
limitations initial date back from 5/11/16, the time the complaint was filed. See EX 1.

*See Exhibit 2.
See Exhibit 3.
*
*
**

*(MP)
(MP)
(MP)
(MP)
(MP)
(MP)
(MP)*

1 against the Property and that the lien is a valid first lien on the Property and on the whole
2 thereof, which lien is not subject to any homestead pursuant to A.R.S. § 33-1807(C), except
3 that the lien is not superior to the first deed of trust of JPMorgan Chase Bank, N.A., recorded
4 July 29, 2011, at Document No.2011-0636115;

6 3. As to these Defendants, the Association's lien is adjudged to be a superior lien
7 upon the Property and is prior and superior to any right, title, interest, lien, equity or estate of
8 the Defendants herein; and to the extent that the Property is foreclosed pursuant to the first
9 Deed of Trust against the Property and there are no or insufficient excess proceeds, the
10 Association shall be entitled to a personal judgment against Defendants Mejia for the amounts
11 set forth above that have not previously been reduced to a personal judgment against said
12 Defendants, or any lesser amounts to the extent of offsetting excess proceeds or interim
13 payments;

16 4. The interests of the Defendants herein are hereby foreclosed, or any of them,
17 and all persons claiming under any of them, and the Defendants herein are forever barred
18 from any or all right, title, claim, interest or lien in and to the Property or with respect thereto,
19 except such rights of redemption as they may have by law;

21 5. Plaintiff's lien is hereby declared foreclosed and a special execution is hereby
22 issued to the Sheriff of Maricopa County, Arizona, directing him to seize and sell the Property
23 as under execution in satisfaction of all amounts due Plaintiff as aforesaid;

25 6. It is hereby directed that if there is any personal property present at or in the
26 Property at the time of the sale, the same will be deemed abandoned and sold as part of the
27 Property if not removed prior to the time the purchaser of the Property elects to take
28 possession of the Property as more fully set forth below, but no later than expiration of the

1 redemption period, to the extent permitted by law, and that the Property to be sold at public
2 auction, and that Plaintiff may be the purchaser at such sale;

3
4 7. It is declared that the redemption period shall be six (6) months, unless the
5 property has been abandoned, in which event the redemption period shall be 30 days;

6 8. Upon the sale of the Property, and in addition to the rights in paragraph 9 below,
7 the Sheriff is ordered to issue a certificate of sale to the purchaser, and after the expiration of
8 the statutory redemption period pertaining to real property, if redemption is not made, the
9 Sheriff shall execute a Deed to the holder of said certificate and the grantee therein shall be let
10 into the premises upon presentation of said Deed; and that if the grantee or its assignees are
11 not let into possession upon presentation of said deed therefor, a writ of possession will issue
12 without further Order of the Court; and
13

14
15 9. Possession of the Property shall be vested in the purchaser immediately
16 following the Sheriff's Sale as the holder of equitable title and thus entitling the purchaser to
17 pursue occupancy by all legal means, subject only to Defendants' right of redemption
18 pursuant to Arizona law.
19

20 10. Dismissing this action as to the unknown heirs and devisees of any of the above
21 named Defendants, if deceased, due to service upon all Defendants.

22 IT IS FURTHER ORDERED directing the Clerk of Court to enter this Judgment
23 forthwith as there exists no just cause or reason for delay, and as no further matters remain
24 pending, the Judgment is entered pursuant to Rule 54(c), ARCP.
25

26 DONE IN OPEN COURT this 3 day of Aug, 2017.

27
28 
COMMISSIONER OF THE SUPERIOR COURT
COMMISSIONER MARGARET BENNY

Exhibit 1 : Principal

CV2016-094391

Lavem Meadows
Homeowners Association v.
Carlos Mejia, et al.

Principal Sum	\$8843.48
minus all amounts prior to May 11, 2013	(2411.50)
minus 2016 Late fees in ledger but not included in principal balance	(120.00)
minus litigation Atty fees + costs in ledger but not included in principal balance	(3464.06)
	<hr/>
	\$ 2847.92
minus Defendant Carlos Mejia's payment *	(5000.00)
balance	<hr/>
	(\$2152.08)

* Payment of \$5000 was tendered after default became effective, and Plaintiff accepted. Plaintiff had the grounds to file complaint to seek foreclosure at the time of the complaint. Plaintiff applied the payment towards principal but the amount was tendered without designation. It is ordered allowing foreclosure to proceed on remaining fees/costs. Amounts reflect the payment, making the amounts owed less.

Exhibit 2 : Costs

CV 2016-094391
Laveen Meadows
Homeowners Association v

Original Statement of Costs
Amount:

\$ 1314.16

Minus:

Postage, Photocopies

(11.41)

Writ of Execution Fee *

(27.00)

Sheriff Fee for Writ *

(250.00)

Recording Fee *

(18.00)

Certification Fee *

(29.00)

Plus: Supplemental costs

37.35

Minus: Postage

(3.85)

Total

\$1012.25

* If incurred in future, Judgment Creditor/Plaintiff may apply for costs by filing a motion for post-judgment costs.

EX 3: Attorneys' Fees

CV 2016-094391
Laveen Meadows
Homeowners Association
v. Carlos Mejia

Original Affidavit of Attorneys Fees: \$ 4190

(Court allows fees incurred regarding other defendants because defendant, as homeowners, failed to pay assessments, fees, that led to lawsuit)

Minus:

4/17-5/17 Prepared for and attendance at default hearing (estimated) (780)
2.6 x \$300 = \$780

(because actual amounts in Supplemental Affidavit)

Flat rate for writ of execution * (400)

Flat rate for Judgment Information Sheet * (100)

Supplemental Affidavit for Attorneys' Fees: \$ 12,300

Minus:

4/28/17 PLK's work on Mo to Set Aside (WWN's time allowed) (450)

5/19/17 WWN's work on Mo to strike (SCA's time allowed) (150)

5/26/17 WWN's work on Mo to strike (SCA's time allowed) (120)

6/1/17 WWN's prep for court hearing (1.5) (BWN's time allowed) (450)

6/2/17 WWN's attendance at hearing w/BWM (2.0) (BWN's time allowed) (600)

6/15/17 WWN's work on prehearing memorandum (SCA's time allowed) (150)

6/19/17 BWM's 3.3 entry for drafting Judgment, Stat of Costs, Fees, Etc. b/c it is listed 2x. Duplicate is deleted. (990)

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* In the future, if these fees are incurred, Plaintiff/Judgment Creditor may file a motion/application for post-judgment fees to be reviewed by Court to see if they comply with case law and statute.

Supplemental Affidavit for Attorneys' Fees

Minus:

6/19/17 WVN's work re strategy conference (.4)
+ finalizing draft to publishing memorandum
(.3) (other Attys' work allowed) (210)

6/20/17 WVN's attendance at evidentiary
hearing (3.07) (BWM's time allowed) $.7 \times \$300/hr$ (900)

Total Atty Fees
Awarded

\$ 11,190.⁰⁰

The Attorneys' fees included in the ledgers were expenses expended to encourage payments pre-litigation and were included as part of the principal owed. Defendant had opportunity to address at time of evidentiary hearing. The Court recognized those amounts within the 3 year statutory limitations period as part of the principal owed to Judgment Creditor and not as part of the litigation attorneys' fees.