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9 *Attorneys for Defendant*

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

11 IN AND FOR THE COUNTY OF MARICOPA

12 LAVEEN MEADOWS HOMEOWNERS'
13 ASSOCIATION, INC., an Arizona nonprofit
14 corporation,

15 Plaintiff,

16 vs.

17 CARLOS MEJIA, a married man, as his sole
18 and separate property; et al.,

19 Defendants.

No. CV2016-094391

**DEFENDANT'S MOTION TO SET
SUPERSEDEAS BOND AND STAY
ENFORCEMENT OF JUDGMENT**

(Comm. Margaret Benny)

20 On September 29, 2017, this Court granted Defendant's previously filed Motion to Set
21 Supersedeas Bond and Stay Enforcement of Judgment (the "Motion") in the amount of \$0.00 and
22 stayed enforcement of the Judgment signed on August 3, 2017. For the sake of brevity, and in an
23 abundance of caution, Defendant incorporates by reference the arguments contained in his Motion
24 and respectfully requests that the Court set the bond amount at zero (\$0.00) and stay the
25 execution of the Judgment and Order recently signed on April 20, 2018 pending appeal.

26 On June 14, 2018, the Court issued a Minute Entry stating that Defendant's May 16,
2018 Motion to Set Supersedeas Bond and Stay Enforcement of Judgment was considered moot
as the Court of Appeals had dismissed Defendant's previously filed appeal (Notice filed on
April 25, 2018) at case number 1 CA-CV 18-0276. The Court of Appeals did dismiss that case
for lack of jurisdiction stating that the March 28, 2018 minute entry was "not final or appealable"

1 because the attorneys' fees issue was not resolved and the minute entry does not contain a
2 certification of finality pursuant to Arizona Rule of Civil Procedure 54(b)."

3 This Court's March 28, 2018 minute entry stated that "Plaintiff may file an application
4 for attorneys' fees and costs and Defendant may file a response to the application." Plaintiff
5 filed its Application for Amount of Attorney Fees Incurred Post-Judgment and separate
6 Statement of Costs on April 5, 2018. These filings were served on Plaintiff's counsel by mail,
7 giving them up to and including April 24, 2018 to respond, which they did so on April 20, 2018.
8 However, Plaintiff's proposed order awarding all fees and costs it requested was signed by the
9 Court on April 19, 2018 (the "Fees and Costs Order").

10 The Fees and Costs Order included a date stamp purportedly by the Clerk of Court
11 indicating it was filed on April 20, 2018. Defendant's counsel never received any copy of the
12 Fees and Costs Order on or near April 20, 2018, nor apparently did Plaintiff because it filed its
13 Reply in Support of Plaintiff's Application for Post-Judgment Attorneys' Fees and Costs on
14 May 2, 2018. The online docket for this case reflects that the Fees and Costs Order was entered
15 by the Clerk of Court on May 16, 2018, though no copy has ever been received by Defendant's
16 counsel.

17 Given the above, Defendant has on this same day filed a Notice of Appeal as to the May
18 16, 2018 Fees and Costs Order and all prior orders or alternatively requested that the new notice
19 be considered an amended notice of appeal of the notice filed on April 25, 2018. Additionally,
20 and on this same day, Defendant has filed a motion for reconsideration in the Court of Appeals
21 requesting the Court reconsider its dismissal.

22 This instant motion should be granted as the prior motion for seeking a \$0.00 supersedeas
23 bond was also granted. There were no damages awarded in this case. Defendant still has no real net
24 worth and he would suffer substantial harm (*i.e.*, the loss of his home) if a bond was required.

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26 ///

1 DATED this 14th day of June 2018.

2 DESSAULES LAW GROUP

3 By: /s/ Jonathan A. Dessaules

4 Jonathan A. Dessaules

5 Jacob A. Kubert

Attorneys for Defendant

6 COPY of the foregoing mailed and e-mailed
7 this 14th day of June 2018, to:

8 Brian W. Morgan, Esq.

9 W. William Nikolaus, Esq.

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13
14 COURTESY COPY hand-delivered:

15 Commissioner Margaret Benny

16 MARICOPA COUNTY SUPERIOR COURT

17 Southeast Facility-3C

222 E. Javelina Ave.

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18
19 /s/ Hilary Narveson