

ARIZONA COURT OF APPEALS

DIVISION ONE

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

Plaintiff/Appellee,

vs.

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

Defendant/Appellant.

1 CA-CV 18-0276

Maricopa County Superior Court
No. CV2016-094391

CASE MANAGEMENT STATEMENT

DESSAULES LAW GROUP

5353 North 16th Street, Suite 110

Phoenix, Arizona 85016

(602) 274-5400

jdessaules@dessauleslaw.com

Jonathan A. Dessaulles, Bar No. 019439

jkubert@dessauleslaw.com

Jacob A. Kubert, State Bar No. 027445

Attorneys for Appellant Carlos Mejia

A. APPELLATE JURISDICTION

1. State the basis for appellate jurisdiction (*See* A.R.S. § 12-2101):

A.R.S. § 12-2101(A)

2. State the date the superior court filed the judgment/order you are appealing and state whether the court signed the ruling.

DOCUMENT	DOCKET DATE	COURT SIG.
Order Awarding Plaintiff Fees and Costs	5/16/2018	Yes
Minute Entry	3/28/2018	Yes
Minute Entry	8/7/2017	No
Judgment on Foreclosure	8/4/2017	Yes
Any and all other orders, rulings, and minute entries entered in this case.		

3. Provide the date each notice of appeal or cross-appeal was filed and identify the filing party.

April 25, 2018 by Defendant/Appellant Carlos Mejia (Amd on 6/14/18)

4. If the time for appeal was extended by one of the motions identified in Arizona Rule of Civil Appellate Procedure 9(e)(1), identify the motion, the date it was filed, the date the superior court filed its ruling on the motion, and state whether the ruling was signed.

Not applicable.

5. If any motions are currently pending in superior court, identify the name of each motion and the date it was filed.

Motion to Set Supersedeas Bond and Stay Enforcement of Judgment
filed June 14, 2018

6. Is the judgment/order appealed from certified as final pursuant to Arizona Rule of Civil Procedure 54(c)?

Yes.

7. If any claims remain pending in the superior court, including claims for attorneys' fees, was the judgment/order made appealable pursuant to Arizona Rule of Civil Procedure 54(b) or Arizona Rule of Family Law Procedure 78(B)?

Not applicable.

B. CASE INFORMATION

1. List all parties to the superior court action.

Defendant/Appellant Carlos Mejia; and Plaintiff/Appellee Laveen Meadows Homeowners' Association, Inc.

2. List any party in superior court that is not a party to this appeal and explain in detail why the party is not included in this appeal, e.g., the party was dismissed, not served, or other. Include specific relevant references to the record.

Not applicable.

3. Describe briefly all claims (including counterclaims, cross-claims and third-party claims) asserted in the superior court and the manner each such claim was resolved in the superior court (i.e., bench trial, jury verdict, dismissal, summary judgment, or default judgment). Include specific relevant references to the record.

Plaintiff filed the underlying action seeking a judgment of foreclosure against Defendant pursuant to A.R.S. § 33-1807(A). Before default judgment was entered and before both sides' incurred the bulk of their fees, Defendant tendered payment for more than the unpaid assessments giving rise to the statutory foreclosure claim but, over Defendant's repeated objections, the Court still entered

default judgment against Defendant on August 4, 2017 in amount of -\$2,152.08 (“a negative amount”), costs of suit of \$1,012.25, and attorneys’ fees of \$11,190.00. The trial court further awarded interest, and future costs and attorneys’ fees. The default judgment further “declared foreclosed” Plaintiff’s lien and authorized a sheriff’s sale of Defendant’s property. Finally, the default judgment “directed that if there is any personal property present at or in the Property at the time of the sale, the same will be deemed abandoned and sold as part of the Property if not removed at the time the purchaser of the Property elects to take possession” and declared that possession “shall be vested in the purchaser immediately following the Sheriff’s Sale as the holder of equitable title and thus entitling the purchaser to pursue occupancy by all legal means.”

4. Identify the issues to be raised on appeal.

Appellant is appealing the trial court’s judgment in favor of Laveen Meadows Homeowners’ Association, Inc. Appellant is further appealing the Court’s denial of his motion to set aside the judgment. Principally at issue is whether a homeowners’ association is entitled to obtain a foreclosure judgment under A.R.S. § 33-1807 if an owner pays all past due assessments following the commencement of the action but does not also pay all unawarded attorneys’ fees or costs allegedly incurred by the HOA.

5. If this case involves an assertion or allegation that a state statute, ordinance, franchise, or rule is unconstitutional on its face, or that a municipal ordinance or franchise is facially invalid, have you complied with A.R.S. § 12-1841?

Not applicable.

C. TRANSCRIPTS

1. State the date you complied with Arizona Rule of Civil Appellate Procedure

11(c)(1) and (2) by ordering the transcript(s) necessary for proper consideration of the issues on appeal.

August 8, 2017.

Identify the certified court reporter or authorized transcriber responsible for preparing the transcript(s): eScribers

Provide the court reporter's estimated date of completion of the transcript(s):

Not applicable.

2. State the date you complied with Arizona Rule of Civil Appellate Procedure 11(c)(3) by filing a notice of transcript order and, if applicable, a statement of the issues.

Appellant is filing contemporaneously herewith a notice of transcripts pursuant to Rule 11(c)(3)(A).

D. OTHER PENDING AND PRIOR PROCEEDINGS

1. If any party to this appeal is the subject of a pending petition in bankruptcy court, identify the court and provide the case name and number.

Not applicable.

2. Provide the case name and number of any other appeal, special action, or petition for review filed from the same, or a consolidated, superior court action.

Not applicable.

3. Provide the case name and number of any other appeal(s) pending in the Court of Appeals that involve the same parties, events, or transactions giving rise to this appeal.

Not applicable.

4. Provide the case name and number of any known pending appeals in the

Court of Appeals that raise the same or closely related issues.

None known at this time.

E. CONTACT INFORMATION

1. Filing Party: Appellant Carlos Mejia

This Case Management Statement is filed by or on behalf of:

Name of Party: Defendant/Appellant Carlos Mejia

Counsel: Jonathan A. Dessaulles
Jacob A. Kubert
Dessaules Law Group

Address: 5353 N. 16th St., Ste. 110
Phoenix, AZ 85016

Email address: jdessaules@dessauleslaw.com, jkubert@dessauleslaw.com

Telephone: (602) 274-5400

Check one: Appellant Cross-Appellant Appellee

For a joint statement by multiple appellants, provide contact information for additional appellants on a separate sheet accompanied by certification that they concur in the contents of this statement.

2. Opposing Party: Laveen Meadows Homeowners' Association, Inc.

Name of Party: Plaintiff/Appellee Laveen Meadows Homeowners'
Association, Inc.

Counsel for Opposing Party: Chad Gallacher
Maxwell & Morgan, PC

Address: 4854 E. Baseline Rd., Ste. 104
Mesa, Arizona 85206

Email address: cgallacher@hoalaw.biz

Telephone: (480) 833-1001

DATED this 23rd day of July 2018.

By: /s/ Jonathan A. Dessaules
Jonathan A. Dessaules
Arizona State Bar No. 019439
Jacob A. Kubert
Arizona State Bar No. 027445
DESSAULES LAW GROUP
5353 North 16th Street, Suite 110
Phoenix, Arizona 85016
Attorneys for Appellant