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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

LAVEEN MEADOWS
HOMEOWNERS' ASSOCIATION, an
Arizona nonprofit corporation,

Plaintiff/Appellee,

v.

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

Defendant/Appellant.

No.: 1-CA-CV 18-0276

Maricopa County Superior Court
No.: CV 2016-094391

**NOTICE OF NEW BINDING
AUTHORITY**

Plaintiff/Appellee Laveen Meadows Homeowners' Association ("Association"), hereby provides notice to this Court that the language of A.R.S. § 33-1807 was amended during the recently completed Legislative Session. The amendment has direct bearing on the matter before this Court. Of central importance to this matter is the question of whether Defendant/Appellant Carlos Mejia ("Mejia"), who admittedly failed to pay assessments for years, could frustrate the Association's ability to foreclose its lien by delivering a partial

payment sufficient to cover the assessments but not the collection costs and fees the business night before the default hearing. Mejia has argued that the language of A.R.S. § 33-1807(A) allowed him to deliver a partial payment for assessments only prior to the default hearing and thereby prevent the Association from obtaining a foreclosure judgment despite his failure to pay for several years leading up to the filing of the foreclosure complaint. The Association has argued that the Association's right to foreclose its lien was determined at the time the Association filed the foreclosure complaint. Because Mejia was more than one year delinquent in the payment of assessments at the time the Association filed its foreclosure lawsuit, the Association was entitled to a judgment foreclosing its lien even after Mejia delivered his eleventh-hour partial payment. The trial court agreed and entered judgment in favor of the Association, which judgment is now on appeal before this Court.

On May 8, 2019, Governor Ducey signed into law Senate Bill 1531, which amended the language of A.R.S. § 33-1807. Among the important changes accomplished by SB 1531, and the one that directly affects this matter, was an amendment clarifying when a homeowner association's lien is determined eligible for foreclosure. A.R.S. § 33-1807(A) was amended to confirm that the Association's ability to foreclose its lien for unpaid assessments and related charges is determined "on the date the action is filed." (*See* copy of SB 1531

attached hereto as Exhibit "1".) The statutory language of A.R.S. § 33-1807(A) now confirms that if, "on the date the [foreclosure] action is filed", the homeowner "has been delinquent in the payment of monies secured by the lien . . . for a period of one year or in the amount of \$1,200 or more, whichever occurs first", a homeowners' association may obtain a judgment foreclosing its lien. The amended language of A.R.S. § 33-1807(A) becomes effective on August 27, 2019. This amendment now codifies what has been the common practice and understanding among practioners in this area of the law as well as the judges handling such cases.

DATED this 24th day of July, 2019.

MAXWELL & MORGAN, P.C.

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