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9 Attorneys for Defendant Hilton Casitas
10 Homeowners Association

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **IN AND FOR THE COUNTY OF MARICOPA**

13 R.L. WHITMER,

14 Plaintiff,

15 vs.

16 HILTON CASITAS HOMEOWNERS
17 ASSOCIATION, also known as HILTON
18 CASITAS COUNCIL OF
19 HOMEOWNERS, also known as HILTON
20 CASITAS COUNCIL OF CO-OWNERS,

21 Defendant.

Case No. CV2021-050888

**AFFIDAVIT IN SUPPORT OF
SUPPLEMENTAL APPLICATION FOR
AWARD OF ATTORNEYS'
FEES AND COSTS**

(Assigned to Honorable Sara Agne)

Edith I. Rudder (EIR) states:

1. I am an attorney with the law firm of Carpenter, Hazlewood, Delgado & Bolen, LLP, and I am one of the attorneys of record for Defendant Hilton Casitas Homeowners Association (the "Association") and submit this Affidavit in response to the January 21, 2022 Order denying Plaintiff's Rule 59 Motion to Alter the October 5, 2021 Final Judgment.

2. Attached to this Affidavit as **Exhibit A** is a summary containing a description of the costs incurred on behalf of the Association subsequent to the Application for Attorneys' Fees and Costs filed on September 2, 2021.

1 3. Attached to this Affidavit as **Exhibit B** is a summary containing a description of
2 the attorneys’ fees on behalf of the Association subsequent to the Application for Attorneys’
3 Fees and Costs filed on September 2, 2021.

4 4. Exhibit B reflects the time recorded by the staff at Carpenter, Hazlewood,
5 Delgado & Bolen, LLP on behalf of the Association in this litigation measured in tenths of an
6 hour, a brief description of the work performed on a daily basis, and the charges for the work
7 performed—limited to that work which occurred subsequent to the Application for Attorneys’
8 Fees and Costs filed on September 2, 2021.

9 5. Timothy Butterfield (TDB) is a 2016 graduate of the James E. Rogers College
10 of Law at the University of Arizona. He has been licensed in the State of Arizona since 2016.
11 His practice consists primarily of civil litigation with a focus on community association law.
12 His billing rate on this matter was \$200.00 per hour.

13 6. I (EIR) am a 2000 graduate of the James E. Rogers College of Law at the
14 University of Arizona and has been licensed in the State of Arizona since 2000. I am admitted
15 to practice in all state and federal courts in Arizona. I am a partner at Carpenter, Hazlewood,
16 Delgado & Bolen, LLP. My billing rate on this matter was \$200.00 per hour.

17 7. Suzanne Hilborn (SNH) provided paralegal work on this matter. She is an
18 experienced litigation paralegal. Her billing rate was \$95.00 per hour.

19 8. I have reviewed the time and billing records maintained by Carpenter,
20 Hazlewood, Delgado & Bolen, LLP, and a true and accurate copy of the billing statements
21 setting forth a description of services, and the amount of the fees charged as attached hereto
22 and incorporated herein.

23 9. Being a member of the State Bar of Arizona, I am familiar with the attorneys’
24 fees customarily charged in this community and in the state for the hourly work of the nature
25 and complexity involved in this matter, taking into account the experience and abilities of

1 each individual attorney involved. Said hourly rates billed to the Association are fair and
2 reasonable under the circumstances and are customarily charged for services rendered by me
3 and my firm. All of the hours expended were necessary and the hourly rates upon which the
4 fees are based are reasonable and have been paid or agreed to be paid by the Association
5 and/or its insurance carrier.

6 10. The billing statements attached reflect the actual amount of time in rendering
7 services to the Association in this case totaling \$3,989.00 in attorneys' fees and \$83.80 in
8 costs.

9 Pursuant to Arizona Rules of Civil Procedure 80(c), I declare under penalty of perjury
10 that the foregoing is true and correct.

11 EXECUTED this 16th day of February 2022.

12 By: /s/ Edith I. Rudder
13 Edith I. Rudder, Esq.
14 1400 East Southern Avenue, Suite 400
15 Tempe, Arizona 85282-5691
16 *Attorneys for Defendant*
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Exhibit A



Carpenter Hazlewood Delgado & Bolen, LLP
Cost Report

AFI / R. L. Whitmer v Hilton Casitas (AFI-HILTONC.01)

Date	Vendor	Check No.	Check Date	Check Status	Ammount	Description
9/2/2021	TurboCourt	6054617	9/2/2021	Cleared	\$6.70	Filing Fee, TurboCourt, 6054617
9/2/2021	TurboCourt	6054566	9/2/2021	Cleared	\$6.70	Filing Fee, TurboCourt, 6054566
9/8/2021	TurboCourt	6071129	9/8/2021	Cleared	\$6.70	Filing Fee, TurboCourt, 6071129
10/25/2021	Nationwide Legal Services	3592	11/10/2021	Cleared	\$32.00	Certified Copy of Judgment
10/25/2021	Nationwide Legal Services	3592	11/10/2021	Cleared	\$25.00	Courier Service for Certified Copy of Judgment
11/8/2021	TurboCourt	6259411	11/8/2021	Cleared	\$6.70	Filing Fee, TurboCourt, 6259411

\$83.80

Exhibit B



Exhibit B
Carpenter Hazlewood Delgado & Bolen, LLP
Time Report

AFI/R.L. Whitmer v. Hilton Casitas

Date	Attorney	Staff Level	Hours	Rate	Ammount	Narrative
09/07/2021	TDB	ASSOC	0.40	200.00	80.00	Review and analysis of Order regarding Motion for Reconsideration.
09/08/2021	EIR	PRTNR	0.30	200.00	60.00	Review and revise proposed form of Judgment awarding attorneys' fees and costs to the Association.
09/08/2021	EIR	PRTNR	0.20	200.00	40.00	Review and revise proposed Notice of Lodging the proposed form of Judgment.
09/08/2021	EIR	PRTNR	0.30	200.00	60.00	Review the Court's ruling on Plaintiffs' Motion for Reconsideration.
09/08/2021	EIR	PRTNR	0.20	200.00	40.00	Draft communication to Louis Seletos, claims adjuster, regarding the Court's ruling on Plaintiff's Motion for Reconsideration and outstanding issues in the case, including the Application for Attorneys' Fees and Costs.
09/08/2021	SNH	PRLGL	0.20	95.00	19.00	Processing of Notice of Lodging Proposed Form of Judgment and proposed form of order to R.L. Whitmer.
09/08/2021	TDB	ASSOC	0.50	200.00	100.00	Review and analysis of Plaintiff's Motion for Reconsideration.
09/08/2021	TDB	ASSOC	0.30	200.00	60.00	Finalize and file Notice of Lodging Proposed Form of Judgment and the proposed Judgment.
09/13/2021	EIR	PRTNR	0.30	200.00	60.00	Review Plaintiff's Motion to the Court to reconsider its ruling in favor of the Association on its Motion to Dismiss.

09/13/2021	EIR	PRTNR	0.20	200.00	40.00	Draft communication to Louis Seletos, claims adjuster, regarding the Motion for Reconsideration filed by Plaintiff Whitmer that resulted in the Ruling previously provided.
09/14/2021	EIR	PRTNR	0.20	200.00	40.00	Consider pending case to determine next steps in defense of the Association and confirm no pending issues not previously addressed.
09/21/2021	EIR	PRTNR	0.20	200.00	40.00	Consider pending matter and deadlines for responses as well as wisdom of joining Plaintiff's spouse under Lattin v. Shamrock Materials, LLC in order to be able to collect on an attorneys' fees and costs award.
09/21/2021	TDB	ASSOC	0.20	200.00	40.00	Analysis of sole and separate property issues.
09/28/2021	EIR	PRTNR	0.20	200.00	40.00	Consider issues raised in Plaintiff's objection to the Association's application for attorneys' fees and costs and how to combat same.
09/30/2021	EIR	PRTNR	0.50	200.00	100.00	Review Plaintiff's objection to the Association's Application for attorneys' fees and costs.
09/30/2021	SNH	PRLGL	0.20	95.00	19.00	Analysis and processing of Plaintiff's Objection to Defendants' Application for an Award of Attorney's Fees and Costs
10/05/2021	EIR	PRTNR	0.20	200.00	40.00	Review Judgment entered in case against Plaintiff for almost full amount sought.
10/05/2021	EIR	PRTNR	0.40	200.00	80.00	Draft communication to Louis Seletos, claims adjuster, regarding judgment entered, amounts deducted from amount sought, collection of judgment after appeal time has expired and related issues.
10/05/2021	TDB	ASSOC	0.20	200.00	40.00	Receipt and review Judgment entered by the Court in favor of the Association for \$16,902.36.

10/05/2021	TDB	ASSOC	0.40	200.00	80.00	Draft email to Joanna O'Neal, Board President, and Linda Diefenderfer, community manager, regarding the Judgment entered in favor of the Association and next steps.
10/05/2021	TDB	ASSOC	0.30	200.00	60.00	Call from Joanna, Board President, regarding the resolution of the matter and amount of attorneys' fees awarded.
10/19/2021	EIR	PRTNR	0.20	200.00	40.00	Review pending matter and outstanding questions regarding issuance of the judgment and assignment/collection of same, whether Plaintiff will appeal same, and related issues.
10/21/2021	SNH	PRLGL	0.20	95.00	19.00	Processing of Judgment with Nationwide Legal Service to obtain Certified copy for recording with Maricopa County Recorder's Office.
10/21/2021	TDB	ASSOC	0.10	200.00	20.00	Analysis of collection steps.
10/25/2021	SNH	PRLGL	0.20	95.00	19.00	Obtain certified copy of Judgment and preparation for recording of same with Maricopa County Recorder's Office.
10/25/2021	SNH	PRLGL	0.40	95.00	38.00	Prepare draft Coversheet and Judgment Information Sheet for submission to Maricopa County Recorder with Certified Judgment for Tim Butterfield review and revision.
10/25/2021	TDB	ASSOC	0.20	200.00	40.00	Review Judgment Information Sheet and certified Judgment for recording to begin collection efforts.
10/26/2021	EIR	PRTNR	0.40	200.00	80.00	Review newly filed Motion from Plaintiff pursuant to Rule 59 where he asks the Court to amend the judgment to remove the attorneys' fees award on the ground that he did not make any contract claims.
10/26/2021	SNH	PRLGL	0.20	95.00	19.00	Analysis and processing of Plaintiff's Rule 59 Motion to Alter the October 5, 2021 Final Judgment

10/26/2021	TDB	ASSOC	0.60	200.00	120.00	Receipt and review Plaintiff's Rule 59 Motion to Alter the Final Judgment requesting that the Court reconsider its award of attorneys' fees.
10/28/2021	EIR	PRTNR	0.30	200.00	60.00	Determine how best to oppose the Rule 59 Motion Whitmer filed as a last ditch attempt to avoid the attorneys' fees award issued by Judge Agne.
10/28/2021	TDB	ASSOC	0.40	200.00	80.00	Analysis of case law cited in Plaintiff's Rule 59 Motion to Alter the Final Judgment.
10/28/2021	TDB	ASSOC	0.80	200.00	160.00	Begin drafting Response to Plaintiff's Rule 59 Motion to Alter the Final Judgment highlighting that the award of attorneys fees was granted both as matter of contract and as sanction for frivolous filing.
10/28/2021	TDB	ASSOC	0.30	200.00	60.00	Consideration of whether to file supplemental request for fees seeking award of additional fees incurred in responding to the Rule 59 Motion.
11/02/2021	EIR	PRTNR	0.50	200.00	100.00	Draft communication to Louis Seletos, claims adjuster, regarding newly filed Rule 59 Motion from Plaintiff and the issues raised therein along with the appeal deadline and likelihood Plaintiff will appeal the Court's decision.
11/02/2021	EIR	PRTNR	0.20	200.00	40.00	Review pending matter and issues related to Plaintiff's Rule 59 Motion and the impact of same on the deadline to file his appeal, if he's going to file.
11/05/2021	EIR	PRTNR	0.20	200.00	40.00	Telephone conference with Louis Seletos, claims adjuster, regarding collecting on judgment award of attorneys' fees and costs.
11/05/2021	TDB	ASSOC	2.20	200.00	440.00	Continue drafting Response to Plaintiff's Rule 59 Motion distinguishing case law cited and relied upon by Plaintiff.

11/08/2021	EIR	PRTNR	1.10	200.00	220.00	Review and revise proposed response in opposition to Plaintiff's attempt to amend judgment awarding attorneys' fees and costs.
11/08/2021	EIR	PRTNR	0.20	200.00	40.00	Draft communication to Louis Seletos, claims adjuster, with update on pending matter including response to Plaintiff's Rule 59 Motion.
11/08/2021	SNH	PRLGL	0.40	95.00	38.00	Finalize Response to Plaintiff's Rule 59 Motion to Alter the Final Judgment and preparation of exhibits for processing with Maricopa County Clerk of Superior Court.
11/16/2021	EIR	PRTNR	0.20	200.00	40.00	Review pending matter, including pending Rule 59 Motion by Plaintiff to set aside the attorneys' fee award of the judgment and possible response Plaintiff might make in his effort to set aside the attorneys' fee award.
11/29/2021	EIR	PRTNR	0.30	200.00	60.00	Review Plaintiff's reply in support of his Motion to Alter the Judgment to remove the attorneys' fees award.
11/29/2021	EIR	PRTNR	0.20	200.00	40.00	Draft communication to Louis Seletos, claims adjuster, advising him of Plaintiff's Reply in support of his Motion to Amend Judgment to eliminate the attorneys' fee award.
11/29/2021	SNH	PRLGL	0.20	95.00	19.00	Analysis and processing of 2021-11-22 Reply in Support of Plaintiff's ARCP Rule 59 Motion to Alter the Oct. 5, 2021 Final Judgment
11/30/2021	EIR	PRTNR	0.20	200.00	40.00	Review outstanding issues in pending matter, including newly submitted Reply in support of Plaintiff's Motion to Revise Judgment to eliminate attorneys' fees and avenues to collection if the Court leaves Judgment as is, including quid pro quo for Plaintiff to waive right to Appeal.

12/07/2021	EIR	PRTNR	0.20	200.00	40.00	Review pending matter and evaluate when it is appropriate to contact the Court for its decision on Plaintiff's pending Motion to Amend the Judgment.
12/15/2021	EIR	PRTNR	0.30	200.00	60.00	Draft communication to Louis Seletos, claims adjuster, regarding Plaintiff's pending motion to amend judgment and lack of movement on same by the Court.
01/05/2022	EIR	PRTNR	0.20	200.00	40.00	Review pending matter to determine next steps in light of the Court's failure to rule on Plaintiff's Motion to Set Aside.
01/18/2022	EIR	PRTNR	0.20	200.00	40.00	Review pending matter to determine what next steps must be taken on the pending motion to set aside the attorneys' fee award.
01/18/2022	EIR	PRTNR	0.50	200.00	100.00	Review and respond several communications from Quentin Phillips, General Counsel, regarding the pending matter, the next steps required to confirm the judgment, and related questions.
01/18/2022	EIR	PRTNR	0.20	200.00	40.00	Draft communication to Louis Seletos, claims adjuster, informing him about the pending issues in this case, including the next steps related to Plaintiff's Motion to Set Aside award of attorneys' fees.
01/21/2022	EIR	PRTNR	0.20	200.00	40.00	Review the Court's Order denying Plaintiff's Motion to Set Aside the judgment entered against him awarding attorneys' fees and costs.
01/21/2022	EIR	PRTNR	0.30	200.00	60.00	Draft communication to Quentin Phillips, General Counsel, informing him of the Court's Order denying Plaintiff's Motion to Set Aside the judgment entered against him awarding attorneys' fees and costs.

01/21/2022	EIR	PRTNR	0.30	200.00	60.00	Draft communication to Louis Seletos, claims adjuster, informing him of the Court's Order denying Plaintiff's Motion to Set Aside the judgment entered against him awarding attorneys' fees and costs.
01/26/2022	EIR	PRTNR	0.20	200.00	40.00	Review and respond to communication from Louis Seletos, claims adjuster, authorizing us to file a supplemental Application for attorneys' fees and costs.
01/31/2022	TDB	ASSOC	1.90	200.00	380.00	Draft Supplemental Application for Attorneys' Fees and supporting Affidavit, cost and time reports, statement of costs and proposed form of Judgment.
02/16/2022	EIR	PRTNR	1.00	200.00	200.00	Review and revise the Supplemental application, proposed affidavit in support thereof, and related information and documentation.
02/16/2022	SNH	PRLGL	0.20	95.00	19.00	Finalize and file the Supplemental Application and supporting docs.
			21.10		3,989.00	