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8 **Attorney for Appellees**

9 **ARIZONA COURT OF APPEALS**
10 **STATE OF ARIZONA**
11 **DIVISION ONE**

12 **ROBERT R. HAWK and CECILIA J.)**
13 **HAWK,) Case No. 1 CA-CV 12-0362**
14 **)**
15 **Plaintiffs/Appellees,) Coconino County Superior Court**
16 **) No. CV 2011-00775**
17 **vs.)**
18 **) APPLICATION AND**
19 **PC VILLAGE ASSOCIATION, INC.) AFFIDAVIT OF ATTORNEY'S**
20 **) FEES AND COSTS**
21 **Defendant/Appellant.)**
22 **)**
23 **)**
24 **)**

25 Pursuant to the Court's Opinion, Appellees were awarded their attorney's
26 fees and costs pursuant to A.R.S. § 12-341.01 and Appellees Robert Hawk and
Cecilia Hawk, by and through the undersigned counsel, submit this affidavit in
compliance with Rule 21(a), Arizona Rules of Civil Appellate Procedure.

STATE OF ARIZONA)
) ss.
County of Coconino)

I, Tevis Reich, state as follows:

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1. I make this affidavit on my own personal knowledge and I am competent to testify to the things stated herein.
2. Throughout this litigation I have been the responsible attorney for client communications, decisions and the management of this litigation.
3. At all times, I delegated responsibility for performing necessary work on behalf of my clients in a manner that would avoid duplication of effort and would be most economical.
4. Exhibit "1" attached hereto sets forth in detail the services that were rendered in connection with this appeal.
5. The following is a summary of Exhibit 1, setting forth the time expended by the legal personnel and their respective hourly rates. The time and amounts set forth below were billed to and paid by the client or are sums that the client is otherwise responsible to pay. I also estimate that an additional three (3) hours will be spent in preparing a reply to support this application for attorney's fees and costs.

ATTORNEY	RATE	HOURS	AMOUNT
Tevis Reich	\$200.00	86	\$17,200.00
Estimated reply time	\$200.00	3	\$600.00
LEGAL ASSISTANTS			
Carol Smith	\$95.00	3.1	\$294.50
Nicole Janosco	\$85.00	8.1	\$688.50

6. I am familiar with the guidelines for determining reasonableness of attorneys' fees and billing rates provided in Schweiger v. China Doll Restaurant, Inc., 138 Ariz. 183, 673 P.2d 927 (App. 1983) and have considered these guidelines in determining a reasonable fee for the services performed by myself as the lead attorney and the legal assistants in connection with this case.
7. Under Arizona law, the prevailing party is entitled to fees for time expended by lawyers and *legal assistants*. Continental Townhouse East Unit One Ass'n v. Brockbank, 152 Ariz. 537, 544-45, 733 P.2d 1120, 1127-78 (App. 1986).
8. The records in Exhibit 1 were generated from entries that were recorded in the law office's computerized time entry and billing program. The entries were made contemporaneously with the service being rendered or cost being assessed and were made by a person with first hand knowledge, and in most cases by the person rendering the service. Statements are generated on a

1 monthly basis and sent to the client who is expected to pay the monthly
2 invoices. These practices and procedures are standard and are within the law
3 office's normal business operations.
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5 9. All times set forth in Exhibit 1 are related to the appeal of this case and the
6 matters and issues before this Court.

7 10. Plaintiffs are entitled to recover a reasonable attorney's fee for every item
8 of service which would have been undertaken by a reasonable and prudent
9 lawyer to advance or protect his client's interest. See *McDowell Mountain*
10 *Ranch Community Association, Inc. v. Simons*, 216 Ariz. 266 ¶21 n.6, 165
11 P.3d 667 (App. 2007); *Schweiger v. China Doll Restaurant*, 138 Ariz. 183,
12 188, 673 P.2d 927, 932 (App. 1983).
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14 11. In support of establishing that the fee requested herein is reasonable, and in
15 accordance with the factors set forth in *Schwartz v. Schwerin*, 85 Ariz. 242,
16 336 P.2d 144 (Ariz. 1959) and Rule 21, Ariz. R. App. Pro., I state the
17 following:
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19 a. I was originally admitted to practice law in 2002 and have practiced
20 law full time since being admitted. I currently hold an active license to
21 practice in Arizona and Florida and I am admitted to practice before *all*
22 the Federal District Courts within those jurisdictions. I am also
23 admitted to practice before the 9th Circuit and 11th Circuit U.S. Court of
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1 Appeals. I opened my own law office in 2005 in Flagstaff. My area of
2 practice is exclusively business and civil law with an emphasis and
3 focus on real estate law and construction law. The issues in this case
4 fall within my area of practice and expertise.
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6 b. Two legal assistants have worked on this case.

7 i. Nicole Janosco possesses a bachelor's of science degree from
8 Northern Arizona University and majored in Criminology/Criminal
9 Justice. As a student at NAU she interned with the Coconino
10 County Attorney's office and gained experience drafting basic
11 pleadings and participated in limited legal proceedings such as
12 mediations and open-court proceedings. She also interned with
13 Coconino County DUI/Drug Court program and acted as the
14 assistant to the program's administrator. After graduating, Ms.
15 Janosco has worked as a legal assistant full time for 3+ years, the
16 entire time having been employed by the Law Office of Tevis
17 Reich. Ms. Janosco is billed out at a rate of \$85 per hour and
18 based on her level of skill and experience I believe this to be a
19 reasonable rate.
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24 ii. Carol Smith has worked in the legal field as a legal assistant for
25 28+ years. She possesses an extremely high degree of skill and
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1 experience. She has worked for the large and well-known law firm
2 of Burch & Cracchiolo P.A. for 14 years as an assistant to the
3 senior partners and then worked for attorney Gerald Nabours for
4 6+ years. Ms. Smith has been employed by the Law Office of
5 Tevis Reich as a legal assistant for 7+ years. As a legal assistant,
6 Ms. Smith regularly prepares legal pleadings and motions and does
7 legal research for issues with a mid-level of complexity. Ms.
8 Smith is billed out at a rate of \$95 per hour and based on her level
9 of skill and experience I believe this to be a reasonable rate.
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12 c. I am familiar with the rates charged by other attorney's within the legal
13 community and the rates I charge are reasonable and commensurate
14 with the rates of other attorneys and law offices with similar
15 experience and skills. In fact, I believe them to be lower than rates
16 charged by other attorneys and lawfirms with a comparable degree of
17 skill and experience. In part, I rely upon the publication from the State
18 Bar of Arizona entitled "Economics of Law Practice in Arizona."
19 *Desktop Reference on the ECONOMICS OF LAW PRACTICE IN ARIZONA,*
20 (State Bar of AZ 2010). *SEE*, Exhibit 2. This publication contains
21 current demographics of practicing attorneys including attorney
22 income by practice category, gender, field of law, office location, work
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1 status, years in practice and firm size (measured by number of
2 attorneys); and provides the prevailing average hourly billing rates for
3 attorneys by a variety of indicators, and legal assistants by years of
4 experience, firm size and office location and evaluate circumstances
5 influencing the practice of law. Based on the study conducted the
6 publication states that the median hourly billing rates for solo
7 practitioners in Arizona is \$250 per hour and that the median rate for
8 legal assistants with 1-4 years of experience (such as Nicole Janosco)
9 is \$95 and for those with 10+ years experience (such as Carol Smith) is
10 \$110 per hour. Based on these study findings, the rates charged by this
11 office are *less than* the rates typically charged in the legal community
12 and should be deemed reasonable.

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16 12. The legal issues in this case are ones that arose from new legislation which
17 lacked any on-point legal precedent. In this respect, the character of work
18 performed in this case amounted to a novel legal concept of state-wide
19 importance without any binding precedent. The degree difficulty in
20 analysing and briefing the legal concepts in this case was *above* average
21 and required a degree of legal skills and expertise that was above average.
22 It involved the analysis and briefing of more complex constitutional issues
23 and their effect on enacted state laws.
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1 13. In the then end, the results obtained on behalf of the Plaintiffs in this matter
2 were excellent and successful in all respects. In significant part, this is due
3 to the experience of the Plaintiffs' attorney and the legal assistants. The
4 case was able to be resolved in a relatively swift manner and this
5 minimized the cost to the litigants and now, the cost for which Plaintiffs
6 are requesting reimbursement for.
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8 14. I believe that every item of service taken on behalf of my client would have
9 been undertaken by a reasonable and prudent lawyer to advance and
10 protect his client's interest and therefore, request and award for the same.
11 *See McDowell Mountain Ranch Community Association, Inc. v. Simons,*
12 *216 Ariz. 266 ¶21 n.6, 165 P.3d 667 (App. 2007); Schweiger v. China Doll*
13 *Restaurant, 138 Ariz. 183, 188, 673 P.2d 927, 932 (App. 1983).*
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18 **VERIFIED STATEMENT OF COSTS**

19 15. Exhibit 1 also reflects taxable costs incurred on behalf of Appellees Hawk in
20 this matter.
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22 16. In this case, Appellees Hawk incurred costs in the amount of \$146.00.

23 17. After reviewing the time sheets and evaluating the efforts necessary to
24 conduct this litigation and considering the results obtained I believe that
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