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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

TURTLE ROCK III HOMEOWNERS
ASSOCIATION, an Arizona non-profit
corporation,

Plaintiff,

vs.

LYNNE A. FISHER, record owner.

Defendant.

Case No.: CV 2015-095897

**REPLY TO DEFENDANT'S
OBJECTION TO PLAINTIFF'S
APPLICATION FOR ATTORNEY
FEES AND COSTS**

Plaintiff TURTLE ROCK III HOMEOWNERS ASSOCIATION ("Plaintiff"), by and through undersigned counsel, hereby Replies to Defendant's Objection to Plaintiff's Application for Attorney Fees and Costs. Defendant's objections do not raise substantive reasons why judgment for all of Plaintiff's attorney fees and costs are unwarranted. Specifically:

1. Defendant argues that the requested attorney fees totaling \$10,839.70 are unreasonable and should therefore not be awarded. First, this matter was *hotly contested* by the Defendant. Frankly, rarely is a party able to obtain complete relief in a contested matter for such a small amount. While the parties may disagree on the amount of attorney fees, it is not disputed that Plaintiff was forced to engage in discovery, prepare and file pleadings,

1 appear in several hearings, and the list goes on and on. It should also be noted that all along
2 the way Plaintiff warned Defendant of the desire to settle so that she could avoid those fees.
3 *See* Exhibit 4, September 16, 2015 letter at page 3 (“All costs of legal action may be
4 awarded against you by a court of law, which fees and costs may be in the thousands of
5 dollars”).

6 2. Defendant apparently argues that it was improper to involve multiple
7 attorneys and paralegals. We disagree. It is a common practice to involve paralegals and
8 associates at their lower rates. The argument that Defendant should simply use one attorney
9 (undersigned) at the highest rate in the firm is nonsensical.

10 3. Defendant’s arguments as to who the prevailing party is and recitation of
11 voluminous cases are moot. This court already deemed the Association the prevailing party
12 on *all of its claims* and ordered it to submit its *China Doll* affidavit. *See* Ruling at Page 3
13 (“**THE COURT FINDS** that the Association is entitled to an award of attorneys’ fees for
14 enforcement of the CC & R’s”). The fact that Defendant argues these trivial and moot
15 points actually support’s Plaintiff’s fee request because it demonstrates how Defendant has
16 characteristically responded to Plaintiff throughout this action. If Defendant had simply
17 worked with Plaintiff at the beginning, rather than shotgun Plaintiff with a multitude of
18 duplicative, trifling facts and arguments, the fees could have been even lower than they are,
19 and they are already significantly low.

20 4. Tellingly, Defendant’s attorney does not address how much he incurred in
21 attorney fees, presumably because they were at or higher than Plaintiff’s attorney fees.

22 5. Plaintiff’s attorney fees not only include those amounts incurred during
23 litigation, but pre-litigation, which are contractually authorized pursuant to Article XIII,
24 Section 2 of the Declaration. Plaintiff’s Exhibit 1, Declaration.

25 6. Defendant objects to costs but does not provide any substantial justification as
26 to what costs should be excluded. The Declaration clearly authorizes *all* costs. *See* Plaintiff
27 Exhibit 1 – Article VI, Section 3 (“and to collect *all costs* incurred in such maintenance or
28 repair from the Owner”); Article XIII, Section 2 (“*whether or not a lawsuit is filed*, such

1 owner agrees to pay reasonable attorney fees and costs thereby incurred, and all other
2 expenses incurred by the Association”).

3 **CONCLUSION**

4 For reasons set forth above, Plaintiff is entitled to pre-litigation and litigation
5 attorney fees and costs incurred to compel Defendant’s compliance. Plaintiff respectfully
6 requests it also be awarded additional attorney fees and costs in replying to Defendant’s two
7 objections. Alternatively, if the court is inclined to reduce Plaintiff’s fee request, Plaintiff
8 respectfully requests that the court offset that reduction with an amount the court believes
9 would be reasonably incurred to reply to Defendant’s objections.

10 DATED this 25th day of May, 2016.

11 GOODMAN LAW GROUP, L.L.P.

12 */s/ Clint G. Goodman*

13 _____
14 Clint G. Goodman, Esq.
15 Maura A. Abernethy, Esq.

16 ORIGINAL of the foregoing e-filed this 25th day of May, 2016 with:

17 The Clerk of the Court

18
19 COPY of the foregoing emailed (with permission) this same day to:

20 J. Roger Wood, Esq.
21 J. Roger Wood, PPLC
22 4600 South Mill Avenue, Suite 3
23 Tempe, Arizona 85282
24 *Attorneys for Defendant*

25 */s/ Clint G. Goodman*

26 By: _____

