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Attorneys for Respondents

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

R.L. WHITMER,

Petitioner,

v.

HILTON CASITAS HOMEOWNERS
ASSOCIATION, also known as
HILTON CASITAS COUNCIL OF
HOMEOWNERS, also known as
COUNCIL OF CO-OWNERS, also
known as HILTON CASITAS
COUNCIL OF CO-OWNERS; and
MICHAEL BENGSON, President of the
Hilton Casitas Homeowners Association,

Respondents.

Case No. CV2016-055080

**AFFIDAVIT OF
NICOLE D. PAYNE
IN SUPPORT OF
APPLICATION FOR AWARD
OF ATTORNEY FEES**

STATE OF ARIZONA)
)ss.
County of Maricopa)

Nicole D. Payne, being first duly sworn, says:

1. I am one of the attorneys for Respondents in the above-entitled action. The firm's practice is dedicated exclusively to the representation of community associations in practicing litigation and defense. All attorneys from this firm that worked on this matter are in good standing with the Arizona State Bar.

1 2. Based upon the records maintained by the law firm, legal services have
2 been rendered, or will be rendered, for Respondents in the amount of \$4,775.00, as more
3 fully described in Exhibit "A", attached hereto, which also provides the identifying
4 initials of each attorney who performed any such legal services, including hourly rates,
5 time billed and a detailed description of the work performed as legal services for
6 Respondents in this action.
7

8
9 3. The charges incurred on behalf of Respondents were incurred pursuant to a
10 fee agreement between Respondents and my law firm, the amounts were charged in
11 accordance therewith; and all amounts charged have been paid, or continue and remain
12 the obligation of Respondents to pay.
13

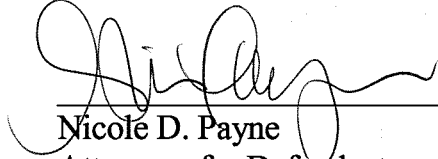
14 4. I have reviewed the records and file maintained by my firm, as well as the
15 substantive pleadings and legal services necessary in order to defend this matter, and I
16 avow to this Court that the total charges incurred, as set forth above, as and for attorney
17 fees constitutes a fair and reasonable fee, and in compliance with the requisite elements
18 set forth in *Schweiger v. China Doll Restaurant, Inc.*, 138 Ariz. 183, 673 P.2d 927 (App.
19 1983).
20

21
22 5. The character of the work performed, billing rates, time billed, requisite
23 billing discretion, the intricacy of legal work performed, importance, and required skill
24 is duly reflected in the detailed exhibit attached hereto, detailing all work performed in
25 the defense of this action.
26

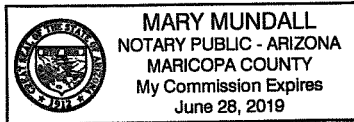
27 6. I have also reviewed the records and files in the above-referenced action
28 with respect to the advancement and payment of costs and disbursements, and avow that

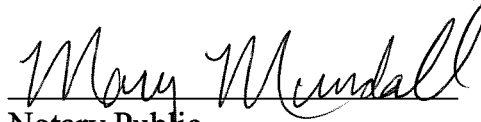
costs of \$33.50 have been expended on behalf of Respondents, all of which is billed to Respondents, and is Respondents' obligation to pay pursuant to the fee agreement between Respondents and this law firm.

DATED this 28th day of June, 2017.


Nicole D. Payne
Attorneys for Defendant

SUBSCRIBED AND SWORN to before me this 28th day of June, 2017, by Nicole D. Payne.




Notary Public

ORIGINAL submitted for electronic filing
this 28th day of June, 2017, with:

Clerk of the Maricopa County Superior Court

ORIGINAL hand-delivered
this 28th day of June, 2017, to:

Hon. Aimee Anderson
Maricopa County Superior Court,
Northeast Regional Court Center
18380 North 40th Street
Phoenix, Arizona 85032

COPY of the foregoing mailed
this 28th day of June, 2017, to:

R.L. Whitmer
6333 North Scottsdale Road, Casita 21
Scottsdale, Arizona 85250
Petitioner, Pro Per

...

1 Lisa Borowski
2 Scottsdale Law Group, P.C.
3 7150 E. Camelback Road, Suite 444
4 Scottsdale, Arizona 85251
5 *Plaintiffs' Counsel*

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By:  _____

EXHIBIT A

DATE	TIME	ATTORNEY	DESCRIPTION OF ATTORNEY FEES INCURRED
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04/19/2017	0.6	NDP	Receive and review Whitmer's Reply in Support of Motion for Reconsideration under Rule 7.1(g). Contemplate same and save to file.
04/27/2017	0.2	NDP	Receive and review Minute Entry denying Plaintiff's Request for Extension of Time to Respond to Association's Application for Award of Attorney Fees and Statement of Costs. Save to file.
04/27/2017	0.3	NDP	Receive and review Plaintiff's Request for Extension of Time to Respond to Association's Application for Award of Attorney Fees and Statement of Costs. Save to file.
05/08/2017	0.5	NDP	Receive and review Plaintiff's Objection to Motion and Application for Award of Attorney Fees and Costs and Proposed form of Judgment.
05/08/2017	1.0	NDP	Draft Reply in Support of Motion and Application for Award of Attorney Fees.
05/16/2017	0.2	NDP	Receive and review Minute Entry denying Mr. Whitmer's Motion for Reconsideration. Save to file.
05/16/2017	0.2	NDP	Receive and review Signed Judgment in favor of the Association. Save to file.
05/16/2017	0.3	NDP	Draft e-mail to client forwarding copy of Signed Judgment and potential for resolution regarding all Whitmer Matters.
05/17/2017	0.2	AHS	Review e-mail from client regarding collections efforts concerning Mr. Whitmer. Respond to same.
05/22/2017	0.6	AHS	Conference with Board regarding Judgment and options for settlement. Provide advice.
05/24/2017	0.7	AHS	Review and analyze Whitmer's Motion to Vacate Judgment and Grant a New Trial. Contemplate same.
05/24/2017	0.2	AHS	Review e-mail from client regarding Whitmer's Motion to Vacate Judgment and Grant a New Trial; respond to same.
05/24/2017	0.2	AHS	Review e-mail from client regarding potential settlement; respond to same and verify desire to settle in light of Whitmer's Motion to Vacate the Judgment and Grant a New Trial.
05/30/2017	0.8	NDP	Review Petitioner's Motion to Vacate Judgment and Grant a New Trial in preparation for drafting Response to same.
05/30/2017	0.3	NDP	Receive and review Whitmer's Letter to the Arizona State Senate President and the Speaker of the House of

			Representatives; contemplate same; save to file.
05/30/2017	0.2	AHS	Review e-mail from client regarding name of Judgment and Complaint; respond to same.
06/02/2017	0.3	NDP	Obtain Conformed copy of Motion to Vacate with Exhibits because the copy mailed to the firm did not contain exhibits and the disk supposedly containing said exhibits was cracked.
06/02/2017	1.2	NDP	Review file and previously filed Motions, Pleadings and exhibits in preparation for drafting Response to Motion to Vacate Judgment.
06/02/2017	2.3	NDP	Draft Response to Motion to Vacate Hearing.
06/05/2017	0.6	NDP	Review and revise Response to Petitioner's Motion to Vacate Judgment and Grant a New Trial.
06/06/2017	1.0	AHS	Review and finalize Response to Petitioner's Motion to Vacate Judgment and Grant a New Trial.
06/13/2017	0.4	NDP	Draft e-mail to client regarding status of matter and confirm understanding regarding proceeding with garnishment on Judgment.
06/13/2017	0.6	NDP	Draft e-mail to client regarding option to garnish and procedure regarding same; request authorization to proceed.
06/13/2017	0.4	NDP	Meeting with Evon and Mr. Shaw regarding Whitmer delinquent in assessments and Association's options to proceed in collections.
06/14/2017	0.5	NDP	Receive e-mail from Board President regarding collection of Judgment and claim tendered to insurance; review and contemplate same; provide response with advice regarding same.
06/19/2017	0.1	AHS	Receive message from Thomas Garcia from State Farm regarding status of case; leave message for Thomas Garcia from State Farm.
06/19/2017	0.1	AHS	Draft e-mail to client regarding call from Thomas Garcia from State Farm and status of potential garnishment.
06/19/2017	0.4	NDP	Telephone conference with insurance adjuster regarding review of lawsuit and court's analysis regarding conclusion of lawsuit; discuss potential settlement options regarding same.
06/19/2017	0.5	NDP	E-mail to client regarding conversation with insurance adjuster and request settlement authorization regarding same.
06/20/2017	0.4	NDP	Telephone conference with insurance adjuster regarding Board's decision to take no action until the Court rules on

			Whitmer's Motion to Vacate.
06/20/2017	0.2	NDP	E-mails with Board regarding potential settlement offer and decision to hold until court rules on Whitmer's Motion to Vacate.
06/21/2017	0.4	AHS	Review and analyze Court's Denial of Whitmer's Motion to Vacate Judgment and Grant New Trial.
06/21/2017	0.4	AHS	Draft e-mail to client regarding Court's Denial of Whitmer's Motion to Vacate Judgment and Grant New Trial.
06/21/2017	0.2	AHS	Conference with manager regarding Court's Denial of Whitmer's Motion to Vacate Judgment and Grant New Trial.
06/21/2017	0.2	NDP	E-mails with Board regarding authorization to proceed with filing fee Application and potential collection options regarding Judgment obtained.
06/21/2017	0.2	AHS	Review e-mail from Board Member regarding opportunity for Whitmer to Appeal.
06/23/2017	0.2	NDP	Receive e-mails from majority of board approving firm to proceed with drafting and filing attorney fee Affidavit and Application, Statement of Costs and proposed form of Judgment as provided for in Court's Order.
06/26/2017	0.5	NDP	Draft Application for Award of Attorney fees.
06/26/2017	0.5	NDP	Draft Affidavit in Support of Application for Award of Attorney Fees.
06/26/2017	0.3	NDP	Draft Statement of Costs.
06/26/2017	0.2	NDP	Draft Notice of Lodging Proposed Form of Judgment.
06/26/2017	0.5	NDP	Draft Proposed Form of Judgment pursuant to Court's Minute Entry.

ATTORNEY	HOURS	RATE	ATTORNEY TOTAL
AUGUSTUS H. SHAW IV (AHS)	4.5	\$250.00	\$1,125.00
NICOLE D. PAYNE (NDP)	14.6	\$250.00	\$3,650.00

ATTORNEY FEES INCURRED TOTAL: \$4,775.00