

1 R. L. Whitmer  
2 6333 N. Scottsdale Rd.  
3 Casita 21  
4 Scottsdale, Arizona 85250  
5 602.531.2615

6 Pro Per

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

9 R. L. WHITMER,

10 Petitioner.

11 v.

12 HILTON CASITAS HOMEOWNERS  
13 ASSOCIATION, also known as  
14 HILTON CASITAS COUNCIL OF  
15 HOMEOWNERS, also known as  
16 COUNCIL OF CO-OWNERS, also  
17 known as HILTON CASITAS  
18 COUNCIL OF CO-OWNERS; and  
19 MICHAEL BENGSON, as President of  
20 the named Respondent

21 Respondents.

22 **CV2016-055080**

23 **RESPONSE TO THE**  
24 **RESPONDENTS' MOTION TO**  
25 **DISMISS**

26 (Assigned to the Honorable  
27 Cynthia Bailey)

28 Oral Argument Requested

29 The Respondents once again present this Court with a motion to dismiss  
30 meant only to delay the proceedings.

31 In their previous motion to dismiss the Respondents bizarrely argued that  
32 administrative law judges could give themselves contempt of court jurisdiction and  
33 powers through the Ariz. Admin. Code R2-19-102(C) by using the Ariz. Rules of  
34 Civil Procedure ("ARCP"), an argument which was soundly rejected by the Court  
35 of Appeals.

36 The Respondents now ask the Court to believe the absurd argument that  
37 an annual budget can be adopted and approved several months after that fiscal  
38

1 year has ended, after the assessments have been collected and the expenditures  
2 incurred.

3 Respondents also contend that the HOA president is just a mere director  
4 who has no power to act despite his unilateral cutting the 2016 Safeguard security  
5 services expense, and then diverting those monies to overspend the 2016 legal  
6 expenses, both without amending the 2016 budget as ordered by Administrative  
7 Law Decision No. 14F-H1415004-BFS (“Order”)<sup>1</sup>. Additionally, the HOA’s bylaws  
8 designate the HOA president as the HOA’s “Chief Executive Officer” responsible  
9 for calling meetings of the board and setting the agenda for board action.

10 If the Respondents are to be believed, then there would not be a need for  
11 officers or directors. The Respondents’ motion to dismiss is unfounded and  
12 should be denied for the following reasons:

13 **I. In accordance with ARCP 8, the Petitioner’s first amended**  
14 **complaint states a claim under which the Court can grant relief.**

15 A.R.S. § 32-2199.02(B)<sup>2</sup> provides that “[An] order issued by the  
16 administrative law judge is enforceable through contempt of court proceedings  
17 and is subject to judicial review as prescribed by section 41-1092.08.” The  
18 Petitioner’s first amended complaint (“Complaint”) clearly states:

19 Petitioner THEREFORE, requests that a hearing be set,  
20 and hereby submits his REQUEST by VERIFIED  
21 COMPLAINT FOR AN ORDER TO SHOW CAUSE to  
22 find the Respondents pursuant to A.R.S. §32-2199.02(B)  
23 in contempt of the Administrative Law Decision No. 14F-  
24 H1415004-BFS (Ex. 1), and to sanction Hilton Casitas  
and its president, Mr. Bengson, as the Court finds

25 <sup>1</sup> The 2015 Administrative Law Decision was rendered for the “overspending more than  
the budgeted legal expenses in 2013 and 2014”.

26 <sup>2</sup> The relevant statutory provisions have been renumbered (and redirected from the  
27 Department of Fire, Building and Life Safety to the Department of Real Estate) since the  
time the Petitioner filed his petition. See 2016 Ariz. Sess. Laws ch. 128, §§ 30–35 (52d  
28 Leg., 2d Reg. Sess.). Because the provisions were not substantively changed, *Compare*  
A.R.S. §§ 32-2199 to - 2199.05, *with* A.R.S. §§ 41-2198 to -2198.05 (2014), the current  
version of the statutes are cited here within.

1 appropriate to insure that in the future Hilton Casitas'  
2 board and officers obey the administrative law order to  
3 follow A.R.S. § 33-1243(D).

4 The Complaint clearly shows that the HOA and its president willfully and  
5 purposely violated the Order in 2016 by not complying with A.R.S. § 33-1243(D)  
6 and in doing so: a) Deprived the casita owners from the right to be able to  
7 properly review the budget and control the use of their money, b) Used the unit  
8 owners' money without authorization by not amending the budget, and c)  
9 Overspent the legal expense budget without authorization. The Complaint  
10 contains the factual allegations which clearly and completely describe the Order  
11 and the HOA's compliance requirement in ¶ 1 through ¶ 5. The violations of the  
12 Order are described in ¶ 6 through ¶ 13 which support the claim for relief, by  
13 establishing the fact that the HOA and its president violated the Order.

14 When adjudicating a Rule 12(b)(6) motion to dismiss for failure to state a  
15 claim, Arizona courts look only to the pleading itself and consider the well-pled  
16 factual allegations contained therein. See, e.g., *Dressler v. Morrison*, 212 Ariz.  
17 279, 281 ¶ 11, 130 P.3d 978, 980 (2006); *Long v. Ariz. Portland Cement Co.*,  
18 89 Ariz. 366, 367-68, 362 P.2d 741, 742 (1961). Courts must also assume the  
19 truth of the well-pled factual allegations and indulge all reasonable inferences  
20 therefrom. *Doe ex rel Doe v. State*, 200 Ariz. 174, 175 ¶ 2, 24 P.3d 1269, 1270  
21 (2001); *Long*, 89 Ariz. at 367, 362 P.2d at 742.

22 As the Petitioner's Complaint clearly states a claim for which relief can be  
23 granted and the factual allegations that support the relief, the Petitioner has left it  
24 for the Court to determine what level of relief should be granted. A contempt fine  
25 accordingly is considered civil and remedial if it either "coerce[s] the defendant  
26 into compliance with the court's order, [or] . . . compensate[s] the complainant for  
27 losses sustained." *United States v. Mine Workers*, 330 U.S. 258, 303-304  
28 (1947).

It is undeniable that the Respondents have cost the Petitioner at least 500

1 hours<sup>3</sup> in attempting to have the Respondents comply with the Order and state  
2 law.

3 The Court should deny the motion to dismiss and move forward with the  
4 evidentiary hearing to determine the appropriate level of relief.

5 **II. As the HOA's "Chief Executive Officer", the HOA president should**  
6 **not be dismissed.**

7 The Respondents would have the Court believe that the HOA president,  
8 Mr. Bengson, acted only as a director and could not act "alone" to effectuate the  
9 HOA taking action, as if the artificial legal entity being the Respondent HOA could  
10 somehow call meetings, set agendas, and act independent of its officers and  
11 directors.

12 The Respondents purposely failed to disclose to the Court that according to  
13 the HOA's bylaws, the HOA president is the HOA's "Chief Executive Officer" and  
14 "shall exercise general supervision and direction over the management and  
15 conduct of the business of the [HOA]" (Respondents' motion to dismiss ("MTD")  
16 Ex. C, Article V, Section 4) and as there are not any regularly scheduled meetings  
17 of the board, the HOA bylaws vest exclusive power with the HOA president to call  
18 meetings of the board (Respondents' MTD Ex. C, Article V, Section 4). The HOA  
19 board and unit owners cannot act without the HOA president calling meetings and  
20 setting the agendas.

21 However, the Respondents do not deny that the HOA president, without  
22 any board action, on his own reduced the 2016 Safeguard security expense  
23 without amending the 2016 budget as required by the Order, and that he then  
24 overspent the 2016 budgeted legal expenses without amending the budget as  
25 required by the Order.

26 It is long recognized in Arizona case law that corporations, as a legal  
27

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28 <sup>3</sup> With more than 30 years of business consultancy experience, the Petitioner's hourly  
billing rate is \$195 per hour. Accordingly, the 500 hours at \$195 per hour equates to  
\$97,500.00.

1 fiction, can only act through their officers and directors. "A corporation can act  
2 only through its agents or officers." See *Lois Grunow Mem'l Clinic v. Davis*, 49  
3 Ariz. 277, 284, 66 P.2d 238, 241 (1937).

4 Case law clearly shows that an officer is responsible for compliance with  
5 judicial orders against the corporation, including contempt of court proceedings...  
6 "[I]f a corporate officer avoids a court's order to the corporation by failing to take  
7 action or attempt compliance," the officer may be punished for contempt and "it is  
8 fully appropriate to impose judicial sanctions on the nonparty corporate officer."  
9 *Electrical Workers Pension v. Gary's Electric*, 340 F.3d 373 (6th Cir. 2003).  
10 *Wilson v. United States*, 221 U.S. 361, 376, 31 S.Ct. 538, 55 L.Ed. 771 (1911)  
11 (noting that the corporation can be proceeded against in its corporate capacity at  
12 the same time that "[officers] are punished in their natural capacities for failure to  
13 do what the law requires of them as the representatives of the corporation."  
14 (quotation omitted)). More recently, we have commented on the issue of holding a  
15 corporate president in contempt when an injunction is directed solely to the  
16 corporation or company. See *United States v. Hochschild*, 977 F.2d 208 (6th  
17 Cir. 1992), cert. denied, 506 U.S. 1067, 113 S.Ct. 1017, 122 L.Ed.2d 164 (1993).  
18 In *Hochschild*, the defendant corporate officer argued that he was not bound by  
19 the terms of the injunction directed to his corporation. In support of his argument,  
20 the defendant relied on language in the district court's order that implied that the  
21 district court may have lacked jurisdiction over him because he was not a named  
22 party in the action. *Id.* at 212. On appeal, the court determined that the injunction  
23 applied to the nonparty officer in his corporate capacity. See also *NLRB v.*  
24 *Sequoia Dist. Council of Carpenters, AFL-CIO*, 568 F.2d 628, 633 (9th Cir.  
25 1977) ("It can hardly be argued that the principal officers of a labor union are not  
26 legally identified with it, and thus liable in contempt for disobeying an order  
27 directed to the union.") Heralding the majority view as the law of this circuit, we  
28 referenced a Second Circuit case quoting Judge Learned Hand: "a person who

1 knowingly assists a defendant in violating an injunction subjects himself to civil as  
2 well as criminal proceedings for contempt. This is well settled law." Hochschild,  
3 977 F.2d at 212 (quoting **Backo v. Local 281, United Bhd. of Carpenters**  
4 **Joiners**, 438 F.2d 176, 180 (2d Cir. 1970), cert. denied, 404 U.S. 858, 92 S.Ct.  
5 110, 30 L.Ed.2d 99 (1971) (quoting **Alemite Mfg. Corp. v. Staff**, 42 F.2d 832 (2d  
6 Cir. 1930))). Ultimately, we determined that the defendant officer was "bound by  
7 the injunction . . . because of his relationship to the corporation." *Id.*

8 Accordingly, the Respondent HOA president is a proper party to the  
9 complaint and is subject to contempt of court proceedings for his role in violating  
10 the Administrative Law Judge's Order. At the evidentiary hearing the Petitioner  
11 will be calling a witness to testify about comments made to the witness and the  
12 Petitioner in August 2016 by the Respondent HOA president that "in community of  
13 only 29 owners there is no reason to go through the trouble of complying with  
14 state law."

15 **III. The Respondents admit to their violations of the Order in their**  
16 **baseless claim of compliance.**

17 As remanded by the Court of Appeals, the Complaint involves violations  
18 that occurred in 2016, which cannot be cured retroactively.

19 The Respondents outrageously claim in their motion to dismiss that they  
20 complied with the Order and A.R.S. § 33-1243.D by having unit owners in March  
21 2017 vote by ballot<sup>4</sup> to approve a "2016 expense summary" (Respondents' MTD  
22 Ex. B).

23 Approval in 2017 of a "summary of expenses" that have already been  
24 expended in the previous year cannot by any stretch of the imagination be  
25 considered approving or ratifying the 2016 budget to comply with the Order. A

26 \_\_\_\_\_  
27 <sup>4</sup> Since approving the "2016 expense summary" has nothing to do complying with the  
28 Order, per the bylaws it requires 15 of the 29 unit owners for approval. The  
Respondents used a fraudulent ballot for casita 5 (Ex. 1) which is not signed by the  
actual owner of record (Ex. 2).

1 budget is forward looking authorization to expend funds based on projected  
2 revenues (assessments).

3 As defined by Black's law dictionary (8<sup>th</sup> edition, p. 582), a budget is:

4 "1. A statement of an organization's estimated revenue  
5 and expenses for a specified period, usu. a year. 2. A  
6 sum of money allocated to a particular purpose or  
project."

7 The budget is an authorization to use the homeowners' assessments for  
8 the expressed purposes as line-itemed in the budget, same as governmental  
9 entities. The Respondents' argument that a 2017 vote on a 2016 expense  
10 summary somehow complies with the Order is no more than a contrived excuse  
11 for the Respondent HOA and its president to avoid being found in contempt.

12 Their argument is nothing more than an admission that the Respondents  
13 did not adopt nor amend the budget within 2016, thus violating the Administrative  
14 Law Order. The Respondents' "Statement of Revenues and Expenses" for 2016  
15 show that while they paid \$14,802.00 for legal fees (Ex. 3), they actually incurred  
16 \$19,049.20 (Ex.4) which constitutes overspending the 2016 budget by \$4,049.20  
17 producing a carryforward expense of \$4,049.20 into the next year's budget.

18 Accordingly, the only issue for the Court to determine through an  
19 evidentiary hearing is the extent and nature of the violation and remedy for the  
20 contempt.

21 **IV. It is indisputable that the Respondents overspent 2017 budget**  
22 **in 2017, and it is highly probable the 2018 budget was also**  
23 **overspent.**

24 The HOA's 2017 income/expense statement<sup>5</sup> (Ex. 5) provided to the unit  
25 owners shows only \$27,112.50 of legal expenses, which is dramatically

26 <sup>5</sup> Despite several requests since 2015, the Respondents have never complied with  
27 A.R.S § 33-1243.J to provide the unit owners with an annual financial audit, financial  
28 review or financial compilation of the association finances. In their 2016  
income/expense statement (Ex. 3), the HOA shows a \$10,000 land lease payment when  
the HOA is not a party to any land lease, nor does the HOA have any physical assets.

1 understated as the known total of 2017 legal expenses is \$46,105.74. In 2017  
 2 the Respondents incurred \$27,951.50 of legal expenses on this case alone as  
 3 stated in the attorneys' fees affidavit exhibits in this case (Ex. 6), and an  
 4 additional \$15,449.00 in other legal expenses (Ex. 7), plus they paid a \$3,431.24  
 5 judgment in a justice court action (CC20166164084-RC).

6 As illustrated in the table below, the Respondents started the 2018 fiscal  
 7 year at least \$6,105.94 in the hole:

<b>LEGAL EXPENSES JANUARY 1, 2016 THROUGH APRIL 30, 2018</b>	
<b>FY2016 Budget (Ex. 3)</b>	\$15,000.00
Incurred Clark Hill (Ex.4)	(19,049.20)
2016 overspend	<u>(\$4,049.20)</u>
<b>FY2017 Budget (Ex. 5)</b>	\$40,000.00
Carryforward payable (2016)	(4,049.20)
Clark Hill CV2016-055080 (Ex. 6)	(8,051.50)
Shaw-Lines CV2016-055080 (Ex. 6)	(15,125.00)
Shaw-Lines non-litigation (Ex. 7)	(15,449.00)
Judgment – CC20166164084-RC	(3,431.24)
Total Known Legal Expenses	(46,105.94)
2017 overspend	<u>(\$6,105.94)</u>
<b>FY2018 Budget (Ex. 8)</b>	\$40,000.00
Carryforward payable (2017)	(6,105.94)
Shaw-Lines non-litigation to April 30, 2018 (Ex. 9)	(11,361.00)
Judgment – Attorney fees and costs (Ex. 10)	(10,340.30)
Total Known Legal Expenses	(27,807.24) <sup>6</sup>

22 It is demonstrable that the Respondents overspent the 2017 budget. It is  
 23 highly probable that the Respondents overspent the 2018 budget, as well. The  
 24 unaccounted legal expenses for 2017 and 2018 are: 1) the cost of JP case  
 25 (CC20166164084-RC); 2) the cost of the lower court of appeals case (LC2017-

26 <sup>6</sup> In April and July 2018, the Petitioner requested copies from the HOA of the legal  
 27 expense billings for January 1, 2018 to June 30, 2018. The HOA's general counsel  
 28 responded claiming that billing records relating to ongoing litigation are attorney-client  
 privileged and were being withheld, and only provided the non-litigation billing invoices  
 January through April which total \$11,361.00, withholding May and June billings (Ex. 9).

1 000273-001); and 3) their answering 1 CA CV 17-0543, because the  
2 Respondents and their general counsel have stonewalled providing the Petitioner  
3 with the complete financial details of their legal expenses. In a response to the  
4 Petitioner's multiple requests for legal expense billing records, the Respondents'  
5 general counsel has claimed that billing on ongoing litigation is attorney client  
6 privileged.

7 There is no doubt that the 2017 legal expenses exceeded the \$40,000  
8 budgeted amount and that the Respondents, with assistance from their general  
9 counsel and community manager, continued to violate the Order.

10 Through discovery it will be determined whether the Respondents  
11 overspent the 2018 budget. If that is the case, the Petitioner will ask the Court to  
12 amend the Complaint to include those potential violations.

13 Additionally, the Respondents in 2017, 2018 and now 2019 have failed to  
14 comply with A.R.S. § 33-1255 which requires the annual budget be adopted  
15 (pursuant to A.R.S. § 33-1243.D in order to set the unit owners' annual  
16 assessments. This clearly shows the Respondents' disregard for complying with  
17 state law.

18 The Petitioner will call the Respondents' community manager to testify at  
19 the evidentiary hearing about the preparation of the HOA's financial reports, and  
20 her telling the HOA's board at a noticed board meeting that all the other HOAs  
21 she manages adopt their budgets in November in order to set the annual  
22 assessment at the beginning of the fiscal year.

23 **V. The Respondents' disregard for the Administrative Law Order**  
24 **was knowingly willful and substantial.**

25 To avoid being found in contempt and not being able to refute the factual  
26 allegations, the Respondents hope that the Court will believe that their violating  
27 the Order is merely technical, despite the HOA president being quoted in the  
28 Order promising to "get everything on the right track" which specifically included

1 complying with A.R.S. § 33-1243.D. It is indisputable that the violation of the  
2 Order was the direct result of the HOA president's willful actions and inactions.

3 A.R.S. § 33-1243.D requires that "within thirty days after adoption of any  
4 proposed budget for the condominium, the board of directors shall provide a  
5 summary of the budget to all the unit owners." A.R.S. § 33-1243(D) requires that  
6 "any budget or amendment shall be ratified by the unit owners... [at] a meeting of  
7 the unit owners to consider ratification of the budget not fewer than fourteen nor  
8 more than thirty days after mailing of the summary."

9 If the Respondents had properly adopted a budget at the February 16,  
10 2016 board meeting, which they did not, the budget was not mailed to the unit  
11 owners within the 30 days required by A.R.S. § 33-1243.D, nor was the March 31,  
12 2016 unit owners meeting called by the HOA president within the required 30  
13 days. Further, to avoid financial scrutiny the HOA president did not provide all the  
14 unit owners with an advance copy of proposed budget as stated by four casita  
15 owners verified statements (Ex. 11) as required by A.R.S. § 33-1243.D. Only  
16 after the March 31, 2016 unit owners annual meeting did the Petitioner obtain a  
17 copy of the budget.

18 Not only did the HOA president fail to take the required action to properly  
19 adopt the 2016 budget as required by the Order, but also without amending the  
20 budget, the HOA president unilaterally reduced the security services and  
21 designated the saving to the reserves which then funded his overspending of the  
22 budget legal expenses which was also done without amending the budget.

23 As previously stated, at the evidentiary hearing the Petitioner will be calling  
24 a witness to testify about comments made to the witness and the Petitioner in  
25 August 2016 by the Respondent HOA president that "in community of only 29  
26 owners there is no reason to go through the trouble of complying with state law."  
27 To determine whether the violation was willful the Court should hold an  
28 evidentiary hearing.

1           **VI. Challenging the Petitioner's standing as a member of the HOA is**  
2           **barred by res judicata.**

3           A.R.S. § 41-2198.01 permitted an owner of residence or a condominium  
4           organization to file a petition with the Department of Fire, Building and Life Safety  
5           for a hearing concerning violations of condominiums and planned community  
6           documents or violations of statutes that regulate condominiums and planned  
7           communities. That statute provided that such petitions will be heard before the  
8           Office of Administrative Hearings. In order for the Administrative Law Judge to  
9           have jurisdiction to hold a hearing, the Tribunal must have parties that have  
10          standing as either an owner or condominium organization.

11          In the Administrative Law Decision No. 14F-H1415004-BFS, the  
12          Administrative Law Judge found that the "Petitioner owns a percentage of a  
13          residence in and is a member of Hilton Casitas" (Ex. 1 of the first amended  
14          complaint, p.1:23).

15          Through the Administrative Law Hearing process, the Respondent HOA  
16          was represented by two separate attorneys and had the opportunity to challenge  
17          the Petitioner's standing but chose not to; probably because the community  
18          documents support the Petitioner having standing. That decision was not  
19          appealed and as such the Respondent is precluded from relitigating an issue that  
20          could have been decided in a prior litigation, *Peterson v. Newton*, 232 Ariz. 593,  
21          595 ¶ 5 (App. 2013).

22          Accordingly, the Petitioner's standing as member of the HOA is res judicata  
23          and the Respondents are estopped from challenging his standing and is barred  
24          by issue preclusion.

25          In addition, the Court of Appeals in its published opinion remanding this  
26          case acknowledged that the Petitioner "is a residence owner and a member of  
27          Hilton Casitas" (Ex. 12, p.2, ¶ 2). The Respondents are barred by waiver,  
28          estoppel, issue preclusion, and prior consent from arguing the standing issue

1 which is another frivolous subject matter jurisdiction argument.

2 Even if the Petitioner's standing was challengeable, which it is not, the  
3 Respondents are plainly attempting to mislead the Court by citing only Article 16  
4 of the Declaration and Section 13 of the sublease as the HOA having a "right of  
5 first refusal" on transfers of interests as prohibiting the Petitioner's spouse  
6 transferring an interest in her casita to the Petitioner.

7 However, the Declaration and sublease incorporate the bylaws as the  
8 controlling authority on transfers. The bylaws clearly allow unrestricted transfers  
9 to those related by blood or marriage:

10 "any owner who wishes to sell or lease his Casita (or any  
11 lessee of any Casita wishing to assign or sub lease such  
12 Casita) to any person not related by blood or  
13 marriage to the owner shall give to the Corporation and  
14 the Council no less than fifteen (15)days' prior written  
15 notice of the terms of any contemplated sale or lease,"  
(Respondents' MTD Ex. C, Art. VII, §1) (Emphasis  
added).

16 Further, the Respondent HOA's controlling governing document is the  
17 Declaration which provides in Section 6.2 that an owner of a fractional interest in  
18 a unit is a member of the association:

19 "Any person, upon acquiring and recording a sublease,  
20 and deed of the unit, and/or other instrument  
21 establishing title to a Casita, shall be the owner of such  
22 Casita and shall automatically become a member of the  
[HOA] ..." (Emphasis added).

23 Article III Section 7 of the Bylaws echoes the Declaration and Section 7  
24 provides for fractional ownership voting:

25 "In the event any Casita is owned by two or more  
26 persons, by a corporation, partnership or other entity  
27 having more than one person as a member, whether by  
28 joint tenancy, tenancy in common, community property,  
or otherwise, the membership as to such Casita shall be  
joint and a single membership for such Casita..."

1 It is indisputable that the Petitioner's spouse's transfer of a fractional  
2 ownership interest in her casita is not prohibited by the Respondent HOA's  
3 governing documents and based upon his fractional ownership the Petitioner is a  
4 member of the HOA. Such despicable misrepresentations and blatant omissions  
5 warrant the Court sanctioning the Respondents.

6 **VII. The case before the Court arises out of statute not contract**

7 The Respondents' attorney's bizarre and desperate attempt to invoke  
8 contract and characterize a contempt complaint as being barred by the A.R.S. §§  
9 10-3631 and 10-3632 requires the Court to ignore that HOA members are entitled  
10 to the statutory alternative dispute resolution process, enacted by the legislature  
11 in A.R.S. § 32-2199.01.A, for violations of contract or statute:

12 "A. For a dispute between an owner and a condominium  
13 association or planned community association that is  
14 regulated pursuant to title 33, chapter 9 or 16, the owner  
15 or association may petition the department for a hearing  
16 concerning violations of condominium documents or  
17 planned community documents or violations of the  
18 statutes that regulate condominiums or planned  
19 communities." (Emphasis added).

20 The Order is about compliance with statute (A.R.S. § 33-1243.D). The  
21 enforcement of orders resulting from the administrative hearings are also  
22 authorized by statute, A.R.S. § 32-2199.02.B, therefore, the Petitioner's complaint  
23 arises out of statute not contract.

24 **VIII. Conclusion**

25 The Respondents did not adopt nor amend the 2016 budget as required by  
26 A.R.S. § 33-1243.D within 2016, thus violating the Administrative Law Order. The  
27 Complaint lays out a claim and the factual allegations to support a finding of  
28 contempt against the Respondents and determining an appropriate sanction.

The Respondents' reliance on the adoption of the 2016 expense summary  
in the spring of 2017 is no more than admission that Respondents did not comply

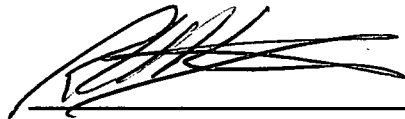
1 with the Order. Because that legal theory is wrong as matter of law, and a  
2 budget cannot be retroactively approved, the Respondents have no defense  
3 against the contempt allegations regarding the 2016 budget; that is apart from the  
4 violation of the Order by overspending the 2016 authorized legal expenses and  
5 re-appropriating funds for reducing the 2016 security expense, both without  
6 amending the budget as required by the Order.

7 It is evident that the Respondents overspent the 2017 budget and highly  
8 probable they overspent the 2018 budget as well.

9 It also appears, based on the exhibits, that the Respondents' attorney was  
10 a participant in gaming the Respondent HOA's financial reports, if not the master  
11 mind. Accordingly, the Petitioner met with the Respondents' attorneys in a Rule  
12 11 consultation and will be sending the Respondents' attorneys a demand that  
13 they withdraw their motion to dismiss, or the Petitioner will proceed with a motion  
14 for Rule 11 sanctions.

15 Accordingly, the motion to dismiss should be denied in its entirety, and the  
16 Court hold an evidentiary hearing to determine the nature of the violation and  
17 appropriate remedy for the multiple acts of contempt.

18 Dated this 26<sup>th</sup> day of December 2018.

19  
20 

21 R. L. Whitmer

22  
23 ORIGINAL filed this  
24 26<sup>th</sup> day of December 2018,  
25 with the Clerk of the Court;

26 and a COPY mailed this same date to:  
27 Augustus Shaw  
28 Shaw & Lines Law Firm  
4523 E. Broadway Rd.  
Phoenix, AZ 85040

**TABLE OF EXHIBITS**

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**Exhibit:**

1. Fraudulent ballot for casita 5
2. November 5, 2015 warranty deed for casita 5
3. Respondents' 2016 "Statement of Revenues and Expenses"
4. 2016 Clark Hill legal billings 1/1/2016 to 12/31/2006
5. 2017 income/expense statement
6. 2017 CV2016-055080 attorneys' fees affidavit exhibits
7. 2017 Shaw-Lines non-litigation legal expenses
8. 2018 budget
9. 2018 Shaw-Lines non-litigation expenses to April 30, 2018
10. 2018 Judgment – Attorney fees and costs
11. Verified statements from four casita owners regarding the 2016 budget
12. Court of Appeals opinion 1 CA CV 17-0543

# Exhibit 1

**IN PERSON BALLOT AND CONSENT TO APPROVE**  
**THE HILTON CASITAS COUNCIL OF HOMEOWNERS**  
**2016 EXPENSE SUMMARY**

The Board of Directors of the Hilton Casitas Council of Homeowners (the "Association") desires to seek the Membership's approval of the enclosed 2016 Expense Summary of the Association.

**THE UNDERSIGNED, BEING THE OWNER(S) OF A LOT/UNIT IN THE ASSOCIATION, HEREBY VOTES AS FOLLOWS:**

  X   **I CONSENT TO AND I APPROVE** the enclosed 2016 Expense Summary of the Association.

       **I DO NOT CONSENT TO AND I DO NOT APPROVE** the enclosed 2016 Expense Summary of the Association.

THIS BALLOT IS VALID FOR ONLY THE PURPOSES OUTLINED ON THIS BALLOT. THIS BALLOT MAY NOT AUTHORIZE ANOTHER PERSON TO CAST VOTES ON BEHALF OF THE OWNER. THIS BALLOT EXPIRES UPON THE ADJOURNMENT OF THE BELOW NOTED MEETING.

Name:   Parr Meadows Lech Kases Trust    
Address:       #5        
Signature:   Parr Meadows

# Exhibit 2

Unofficial  
20 Document

WHEN RECORDED, MAIL TO:

Richard Kosiec

6333 N Scottsdale Road

Unit 5

Scottsdale AZ

85250

09

ha

ARS 11-1134-B3

**WARRANTY DEED**

For the consideration of Ten Dollars, and other valuable considerations, I or we

**Dennis Zeitler, a married man as his sole and separate property**

do hereby convey to

**Richard Kosiec and Rosemary Colleen Richmond, husband and wife**

the following described property situated in the County of Maricopa, State of Arizona.

**The Improvements located on Tract No. 5, Hilton Casitas, according to Declaration of Horizontal Property Regime recorded in Docket 9448, page 790 and according to Book 149 of Maps, pages 49 and 50, Affidavit of Correction in Docket 10025, Page 605, records of Maricopa County, Arizona.**

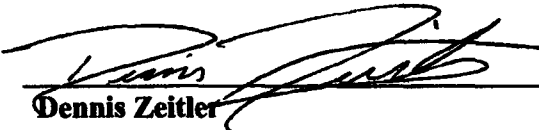
**TOGETHER WITH an undivided interest in the common elements as set forth in said Declaration and Plat and any Annexations thereto.**

**SUBJECT TO:** Current taxes, assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions and restrictions as may appear of record.

And I or we do warrant the title against all persons whomsoever, subject to the matters above set forth.

Dated: November 5, 2015

SEE ACCEPTANCE ATTACHED HERETO  
AND BY REFERENCE MADE A PART HEREOF.

  
Dennis Zeitler

# Exhibit 3

# The Hilton Casitas Council of Homeowners

## 02 - Statement of Revenues and Expenses

Posted 12/1/2016 to 12/31/2016 11:59:00 PM

	Current Month Operating			Year to Date Operating			Annual
	Actual	Budget	Variance	Actual	Budget	Variance	
<b>REVENUES</b>							
<u>Revenues</u>							
5010 Assessments	122,121.48	100,585.92	21,535.56	122,121.48	100,585.92	21,535.56	100,585.92
TOTAL Revenues	<u>122,121.48</u>	<u>100,585.92</u>	<u>21,535.56</u>	<u>122,121.48</u>	<u>100,585.92</u>	<u>21,535.56</u>	<u>100,585.92</u>
TOTAL REVENUES	<u>122,121.48</u>	<u>100,585.92</u>	<u>21,535.56</u>	<u>122,121.48</u>	<u>100,585.92</u>	<u>21,535.56</u>	<u>100,585.92</u>
<b>EXPENSES</b>							
<u>Administrative</u>							
8500 Bank charges	0.00	360.00	(360.00)	0.00	360.00	(360.00)	360.00
8530 Insurance	1,595.00	1,595.00	0.00	1,595.00	1,595.00	0.00	1,595.00
8540 Legal Fees ←	14,802.00	15,000.00	(198.00)	→ 14,802.00 ←	15,000.00	(198.00)	15,000.00
8545 Land Lease ←	10,000.00	0.00	10,000.00	→ 10,000.00 ←	0.00	10,000.00	0.00
8550 Management fee	1,350.00	3,000.00	(1,650.00)	1,350.00	3,000.00	(1,650.00)	3,000.00
8555 Management Fee Hilton	12,180.00	12,180.00	0.00	12,180.00	12,180.00	0.00	12,180.00
8570 Meeting expense	75.00	0.00	75.00	75.00	0.00	75.00	0.00
8590 Office expense	1,459.05	0.00	1,459.05	1,459.05	0.00	1,459.05	0.00
8595 Accounting/misc fees	425.00	400.00	25.00	425.00	400.00	25.00	400.00
8625 Security	29,035.65	26,035.65	3,000.00	29,035.65	26,035.65	3,000.00	26,035.65
8634 AZ Corp Comm Report	125.00	0.00	125.00	125.00	0.00	125.00	0.00
TOTAL Administrative	<u>71,046.70</u>	<u>58,570.65</u>	<u>12,476.05</u>	<u>71,046.70</u>	<u>58,570.65</u>	<u>12,476.05</u>	<u>58,570.65</u>
<u>Landscaping</u>							
8010 Landscape - contract	8,644.15	8,644.15	0.00	8,644.15	8,644.15	0.00	8,644.15
TOTAL Landscaping	<u>8,644.15</u>	<u>8,644.15</u>	<u>0.00</u>	<u>8,644.15</u>	<u>8,644.15</u>	<u>0.00</u>	<u>8,644.15</u>
<u>Repairs and Maintenance</u>							
8340 Storage	652.30	0.00	652.30	652.30	0.00	652.30	0.00
8355 Street maintenance/Repairs	500.00	500.00	0.00	500.00	500.00	0.00	500.00
TOTAL Repairs and Maintenance	<u>1,152.30</u>	<u>500.00</u>	<u>652.30</u>	<u>1,152.30</u>	<u>500.00</u>	<u>652.30</u>	<u>500.00</u>
<u>Utilities</u>							
8400 Electric	478.87	478.87	0.00	478.87	478.87	0.00	478.87
8410 Gate Telephone	778.02	778.02	0.00	778.02	778.02	0.00	778.02
8425 Sewer	10,851.84	10,851.84	0.00	10,851.84	10,851.84	0.00	10,851.84
8440 Trash	8,700.00	8,700.00	0.00	8,700.00	8,700.00	0.00	8,700.00
TOTAL Utilities	<u>20,808.73</u>	<u>20,808.73</u>	<u>0.00</u>	<u>20,808.73</u>	<u>20,808.73</u>	<u>0.00</u>	<u>20,808.73</u>
<u>z - Reserve Contributions</u>							
8700 Reserve - contribution	24,872.67	24,872.67	0.00	24,872.67	24,872.67	0.00	24,872.67
TOTAL z - Reserve Contributions	<u>24,872.67</u>	<u>24,872.67</u>	<u>0.00</u>	<u>24,872.67</u>	<u>24,872.67</u>	<u>0.00</u>	<u>24,872.67</u>
TOTAL EXPENSES	<u>128,524.55</u>	<u>113,396.20</u>	<u>13,128.35</u>	<u>128,524.55</u>	<u>113,396.20</u>	<u>13,128.35</u>	<u>113,396.20</u>
Excess Revenue / Expense	<u>(4,403.07)</u>	<u>(12,810.28)</u>	<u>8,407.21</u>	<u>(4,403.07)</u>	<u>(12,810.28)</u>	<u>8,407.21</u>	<u>(12,810.28)</u>

# Exhibit 4

<b>Hilton Casitas 2016 Legal Expenses</b>			
<b>Clark Hill Invoices</b>		<b>Monthly</b>	<b>Year to date</b>
February 16, 2016		\$97.50	\$97.50
March 24, 2016		\$2,145.00	\$2,242.50
April 28, 2016		\$5,037.50	\$7,280.00
May 28, 2016		\$455.00	\$7,735.00
June 29, 2016		\$812.50	\$8,547.50
July 28, 2016		\$2,730.00	\$11,277.50
August 29, 2016		\$260.00	\$11,537.50
September 27, 2016		\$694.70	\$12,232.20
September 27, 2016		\$4,095.00	\$16,327.20
October 28, 2016		\$257.00	\$16,584.20
November 15, 2016		\$715.00	\$17,299.20
November 15, 2016		\$1,155.00	\$18,454.20
December 8, 2016		\$595.00	\$19,049.20
<b>TOTAL</b>		<b>\$19,049.20</b>	

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425940

## INVOICE

Invoice # 639112

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

February 16, 2016  
Client: 48320  
Matter: 179849

=====

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through January 31, 2016

Total Services: \$97.50

INVOICE TOTAL \$97.50

12/16/15 631943 \$357.50

Outstanding Balance: \$357.50

TOTAL AMOUNT DUE \$455.00  
=====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
February 16, 2016  
INVOICE # 639112  
Page 2

DETAILED DESCRIPTION OF SERVICES

01/22/16	Review memorandum from Corey R Anderson regarding status of litigation (.1) (No Charge); review letter from LeMan Witter regarding invalid assessment (.3).	.30	97.50
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\$97.50

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.30 hours at \$325.00 =	\$97.50
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# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 645220

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

March 24, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through February 29, 2016

Total Services: \$1,690.00

INVOICE TOTAL \$1,690.00

12/16/15	631943	\$357.50
02/16/16	639112	\$97.50

Outstanding Balance: \$455.00

TOTAL AMOUNT DUE \$2,145.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
March 24, 2016  
INVOICE # 645220  
Page 2

## DETAILED DESCRIPTION OF SERVICES

02/11/16	Review comments to Declaration from Board members and Reply.	R Anderson	.90	292.50
02/12/16	Review and revise Declaration.	R Anderson	2.80	910.00
02/16/16	Review Declaration and bylaws; attend Homeowners Association Board meeting (No Charge).	R Anderson	3.20	NO CHARGE
02/24/16	Revise Declaration per Board's comments (2.2); telephone call to M. Bengson regarding changes to Declaration (.3). (Discount 1.0 hours from total).	R Anderson	1.50	487.50

\$1,690.00

## TIMESHEET SUMMARY

RGA	Robert G. Anderson	3.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	5.20 hours at	\$325.00 =	\$1,690.00

# CLARK HILL

P.L.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0423840

## INVOICE

Invoice # 649885

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

April 28, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through March 31, 2016

Total Services: \$2,892.50

INVOICE TOTAL \$2,892.50

12/16/15	631943	\$357.50
02/16/16	639112	\$97.50
03/24/16	645220	\$1690.00

Outstanding Balance: \$2,145.00

TOTAL AMOUNT DUE \$5,037.50

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 28, 2016  
INVOICE # 649885  
Page 2

## DETAILED DESCRIPTION OF SERVICES

03/10/16	Review memorandum regarding voting for Board (.1); review condominium statutes and reply to B. Pollock, review issue of short term leases (.2); telephone call to M. Bengson regarding lease issue on Declaration, Whitmer's recent actions, HOA meeting, revision of rules and regulations (.8); research case law on amending Declaration, scope of amendment, (.9); review original declaration regarding rental issue and new Declaration (.7); memorandum to S. Pollock regarding amendment and fines for violating rules and regulations (.2).	R Anderson	2.90	942.50
03/14/16	Telephone call from S. Pollock regarding Declaration and leasing issue (No Charge).	R Anderson	.20	NO CHARGE
03/15/16	Review and revise Declaration in final format.	R Anderson	1.00	325.00
03/15/16	Telephone call to M. Bengson regarding meeting (.2); review Declaration and make revisions to Declaration (.5).	R Anderson	.70	227.50
03/21/16	Telephone call from M. Bengson regarding annual meeting (No Charge).	R Anderson	.20	65.00

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
April 28, 2016  
INVOICE # 649885  
Page 3

03/23/16	Prepare letter to members, Notice of Meeting and Agenda, review Absentee ballot.	R Anderson	1.30	422.50
03/24/16	Telephone call to M. Bengson regarding rules and regulations (.2); review memorandum from E. Sluder (.2).	R Anderson	.40	130.00
03/28/16	Telephone call from S. Pollock regarding issues with violation of rules and regulations.	R Anderson	.40	130.00
03/29/16	Review letter from attorney R. Porter regarding new Declaration.	R Anderson	.30	97.50
03/30/16	Review emails and prepare for meeting (.5); telephone call from Mike regarding corporation not ready to ratify new declaration, rules and regulations, issues at meeting (.8).	R Anderson	1.30	422.50
03/31/16	Review email from Cameron and Lamar regarding issues with Declaration (.1); telephone call to Mike B. regarding agenda, Cameron letter (.2); review email from Pollock (.1); Attend HOA meeting (2.1 No Charge).	R Anderson	.40	130.00

\$2,892.50

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	8.90 hours at	\$325.00 =	\$2,892.50

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 655227

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

May 28, 2016  
Client: 48320  
Matter: 179849

=====

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through April 30, 2016

Total Services: \$455.00

INVOICE TOTAL \$455.00

12/16/15	631943	\$357.50
02/16/16	639112	\$97.50
03/24/16	645220	\$1690.00
04/28/16	649885	\$2892.50

Outstanding Balance: \$5,037.50

TOTAL AMOUNT DUE \$5,492.50  
=====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
May 28, 2016  
INVOICE # 655227  
Page 2

DETAILED DESCRIPTION OF SERVICES

04/14/16	Review memoranda regarding amended declaration and lease issue (No Charge).	R Anderson	.20	NO CHARGE
04/25/16	Telephone call from M. Bengson regarding revised rules and regulations and enforcing liens.	R Anderson	.30	97.50
04/30/16	Work on revised and updated Rules and Regulations.	R Anderson	1.10	357.50

\$455.00

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	1.40 hours at	\$325.00 =	\$455.00

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 660064

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

June 29, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through May 31, 2016

Total Services: \$812.50

INVOICE TOTAL \$812.50

12/16/15	631943	\$357.50
02/16/16	639112	\$97.50
03/24/16	645220	\$1690.00
04/28/16	649885	\$2892.50
05/28/16	655227	\$455.00

Outstanding Balance: \$5,492.50

TOTAL AMOUNT DUE \$6,305.00  
=====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
June 29, 2016  
INVOICE # 660064  
Page 2

DETAILED DESCRIPTION OF SERVICES

05/10/16	Review letter from L. Whitmer regarding assessments.	R Anderson	.20	65.00
05/18/16	Telephone call to M. Bengson regarding new Rules and Regulations;	R Anderson	.40	130.00
05/19/16	Telephone call from M. Bengson regarding Witmer lawsuit and rules and regulations.	R Anderson	.40	130.00
05/25/16	Work on rules and regulations.	R Anderson	1.50	487.50

\$812.50

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	2.50 hours at \$325.00 =	\$812.50
-----	--------------------	--------------------------	----------

# CLARK HILL

PLC

ATTORNEYS AT LAW

14830 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 664445

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

July 28, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through June 30, 2016

Total Services: \$2,730.00

INVOICE TOTAL \$2,730.00

05/28/16	655227	\$455.00
06/29/16	660064	\$812.50

Outstanding Balance: \$1,267.50

TOTAL AMOUNT DUE \$3,997.50

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
July 28, 2016  
INVOICE # 664445  
Page 2

## DETAILED DESCRIPTION OF SERVICES

06/02/16	Telephone call from M. Bengson regarding rules and regulations.	R Anderson	.20	65.00
06/03/16	Prepare complaint for judicial foreclosure of Unit 21.	R Anderson	2.10	682.50
06/21/16	Review and revise Complaint for foreclosure on Unit 21 (.5); Review records of Maricopa County on other liens (.4); Prepare Verification (.2).	R Anderson	1.10	357.50
06/22/16	Review late fee calculations (.2); Revise Whitmer Complaint (.2); Telephone call to M. Bergson regarding late fees (.2); Review bylaws and declaration regarding board resolution for late fee (3.).	R Anderson	.90	292.50
06/22/16	Prepare Complaint for Schaffer delinquency (1.1); Review condition of title to Eli property (.5).	R Anderson	1.60	520.00
06/23/16	Review memorandum from Corey (.1); Review Whitmer Complaint and allegations (.3); Review original Declaration (.4); Review new proposed declaration (.4); Memorandum to Corey (.8); Review prior judgment (.3).	R Anderson	2.30	747.50
06/24/16	Prepare Complaint for filing.	R Anderson	.20	65.00

\$2,730.00

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
July 28, 2016  
INVOICE # 664445  
Page 3

TIMEKEEPER SUMMARY

RG	Robert G. Anderson	8.40 hours at \$325.00 =	\$2,730.00
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# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 669279

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

August 29, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through July 31, 2016

Total Services: \$260.00

INVOICE TOTAL \$260.00

05/28/16	655227	\$455.00
06/29/16	660064	\$812.50
07/28/16	664445	\$2730.00

Outstanding Balance: \$3,997.50

TOTAL AMOUNT DUE \$4,257.50  
=====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
August 29, 2016  
INVOICE # 669279  
Page 2

## DETAILED DESCRIPTION OF SERVICES

07/18/16	TT First American re status of title reports (NO CHARGE).	R Anderson	.20	NO CHARGE
07/26/16	Review memorandum from Mike Bengson, review proposed changes to Rules and Regulations, review new Arizona Statutes to take effect August 1, 2016.	R Anderson	.80	260.00

\$260.00

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.20 hours at	\$0.00 =	\$0.00
RGA	Robert G. Anderson	0.80 hours at	\$325.00 =	\$260.00

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 673736

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

September 27, 2016  
Client: 48320  
Matter: 179849

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through August 31, 2016

Total Services: \$195.00

FOR EXPENSES INCURRED OR ADVANCED:

Service of Process \$499.70

Total Expenses: \$499.70

INVOICE TOTAL \$694.70

TOTAL AMOUNT DUE \$694.70

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
September 27, 2016  
INVOICE # 673736  
Page 2

DETAILED DESCRIPTION OF SERVICES

08/23/16	Review revised Rules and Regulations; review lease form; telephone call from M. Bergson regarding Rules and Regulations.	R Anderson	.60	195.00
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\$195.00

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.60 hours at \$325.00 =	\$195.00
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# CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85234  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 683075

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

November 15, 2016  
Client: 48320  
Matter: 179849

=====

RE: Condominium Reorganization and Whitmer Dispute

FOR SERVICES RENDERED through October 31, 2016

Total Services: \$715.00

INVOICE TOTAL \$715.00

09/27/16 673736 \$694.70

Outstanding Balance: \$694.70

TOTAL AMOUNT DUE \$1,409.70

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
Condominium Reorganization and Whitmer Dispute  
November 15, 2016  
INVOICE # 683075  
Page 2

DETAILED DESCRIPTION OF SERVICES

10/06/16	Telephone conference with Mike regarding Answer to Compliant regarding Safeguard; review Summary of Safeguard Contract and Benefits to Association; prepare Answer to Complaint.	R Anderson	1.50	487.50
10/07/16	Continue to prepare of answer to Whitmer Complaint; telephone conference with Mike regarding allegations by Whitmer regarding use of Safeguard Services.	R Anderson	.70	227.50

\$715.00

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	2.20 hours at \$325.00 =	\$715.00
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# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 300  
Scottsdale, Arizona 85254  
Telephone (480) 694-1100  
Fed.ID # 38-0425940

## INVOICE

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

Invoice # 673740  
September 27, 2016  
Client: 48320  
Matter: 306528

=====

RE: London, Colleen and Whitmer, R.L.

FOR SERVICES RENDERED through August 31, 2016

Total Services: \$4,095.00

INVOICE TOTAL \$4,095.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

## CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
London, Colleen and Whitmer, R.L.  
September 27, 2016  
INVOICE # 673740  
Page 2

### DETAILED DESCRIPTION OF SERVICES

08/04/16	RGA Telephone call from M. Bengson regarding production of documents for Whitmer, short term rental issues, new legislation; review file; review Whitmer Motion to Dismiss and documents attached; prepare Response to Motion to Dismiss.	2.90
08/05/16	RGA Telephone call from M. Bengson regarding payment of delinquent assessments (No Charge).	.20
08/08/16	RGA Review briefs and Court Judgments received from Corey Hill, continue to work on Response to Whitmer Motion, telephone call to M. Bengson regarding additional delinquency for July and August.	2.70
08/09/16	MSS Discussion with R. Anderson regarding effective and proper arguments for response to motion to dismiss.	.70
08/09/16	RGA Continue preparation of Response to Motion to Dismiss, telephone call to M. Bengson regarding payment by Whitmer.	3.50
08/18/16	RGA Review letter from Whitmer regarding review of books and records, telephone call to M. Bengson regarding Whitmer request for records and response.	.60
08/19/16	RGA Review correspondence from B. Porter, attorney for Whitmer regarding Board Meeting.	.20
08/25/16	RGA Review Whitmer's Reply to HOA's Response to Motion to Dismiss; telephone call to M. Bengson regarding Reply.	.70
08/30/16	RGA Review memo to Whitmer and attachments; review memo from Whitmer to Mike regarding Safeguard overcharges and offset.	.40

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
London, Colleen and Whitmer, R.L.  
September 27, 2016  
INVOICE # 673740  
Page 3

\$4,095.00

## TIMEKEEPER SUMMARY

MSS  
RGA  
RGA

Mark S. Sifferman  
Robert G. Anderson  
Robert G. Anderson

0.70 hours at \$350.00 =  
0.20 hours at \$0.00 =  
11.00 hours at \$350.00 =

\$245.00  
\$0.00  
\$3,850.00

# CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Invoice # 679335

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

October 28, 2016  
Client: 48320  
Matter: 306528

RE: London, Colleen and Whitmer, R.L.

FOR SERVICES RENDERED through September 30, 2016

Total Services: \$245.00

FOR EXPENSES INCURRED OR ADVANCED:

Filing Fees \$12.00

Total Expenses: \$12.00

INVOICE TOTAL \$257.00

09/27/16 673740 \$4095.00

Outstanding Balance: \$4,095.00

TOTAL AMOUNT DUE \$4,352.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Hilton Casitas Council of Homeowners  
London, Colleen and Whitmer, R.L.  
October 28, 2016  
INVOICE # 679335  
Page 2

## DETAILED DESCRIPTION OF SERVICES

09/23/16 RGA Review new complaint from Whitmer re Safeguard, TT Mike re new complaint.	.40
09/26/16 RGA TF Mike Bergson re new complaint.	.30

\$245.00

## TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	0.70 hours at \$350.00 =	\$245.00
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# CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, AZ 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0423940

## INVOICE

Invoice # 683076

Hilton Casitas Council of Homeowners  
Attn: Michael Bengson  
6333 N. Scottsdale Road  
Unit 10  
Scottsdale, AZ 85250-5428

November 15, 2016  
Client: 48320  
Matter: 306528

RE: London, Colleen and Whitmer, R.L.

FOR SERVICES RENDERED through October 31, 2016

Total Services: \$1,155.00

INVOICE TOTAL \$1,155.00

09/27/16	673740	\$4095.00
10/28/16	679335	\$257.00

Outstanding Balance: \$4,352.00

TOTAL AMOUNT DUE \$5,507.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

**CLARK HILL P.L.C.**

Hilton Casitas Council of Homeowners  
London, Colleen and Whitmer, R.L.  
November 15, 2016  
INVOICE # 683076  
Page 2

DETAILED DESCRIPTION OF SERVICES

10/10/16 RGA Review and revise Complaint and file in Justice Court.	.30
10/11/16 RGA Review Whitmer Application for Costs.	.20
10/17/16 RGA Prepare response in Opposition of Defendants Application for Costs; telephone conference with M. Bengson regarding issues with Opposition to Application; copy of May delinquency notice, Justice Court Answer.	2.60
10/18/16 RGA Telephone conference with M. Bengson regarding notices to Whitmer, Answer to Justice Court Complaint.	.20

\$1,155.00

TIMEKEEPER SUMMARY

RGA	Robert G. Anderson	3.30 hours at \$350.00 =	\$1,155.00
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# Exhibit 5

**03 - GL Income Statement Annual Standard**  
**The Hilton Casitas Council of Homeowners**  
 Posted 11/1/2017 To 12/31/2017 11:59:00 AM

	January	February	March	April	May	June	July	August	September	October	November	December	Total	Budget
<b>Operating</b>														
<b>INCOME</b>														
<b>Revenues</b>														
Assessments	6,013.84	9,035.24	7,585.04	6,997.90	7,354.92	11,094.48	7,583.24	7,446.15	8,700.60	8,093.12	7,226.00	7,822.16	94,952.69	100,585.92
Late fees	25.00	125.00	25.00	50.00	0.00	175.00	42.76	175.00	100.00	107.24	0.00	50.00	875.00	0.00
Collections	0.00	0.00	0.00	0.00	0.00	26.74	0.00	26.74	26.74	0.00	0.00	0.00	80.22	0.00
Interest income	0.53	0.63	0.80	0.42	0.40	0.66	1.16	1.04	1.04	1.06	1.09	1.18	10.01	0.00
<b>TOTAL Revenues</b>	<b>6,039.37</b>	<b>9,160.87</b>	<b>7,610.84</b>	<b>7,048.32</b>	<b>7,355.32</b>	<b>11,296.88</b>	<b>7,627.16</b>	<b>7,648.93</b>	<b>8,828.38</b>	<b>8,201.42</b>	<b>7,227.09</b>	<b>7,873.34</b>	<b>95,917.92</b>	<b>100,585.92</b>
<b>TOTAL INCOME</b>	<b>6,039.37</b>	<b>9,160.87</b>	<b>7,610.84</b>	<b>7,048.32</b>	<b>7,355.32</b>	<b>11,296.88</b>	<b>7,627.16</b>	<b>7,648.93</b>	<b>8,828.38</b>	<b>8,201.42</b>	<b>7,227.09</b>	<b>7,873.34</b>	<b>95,917.92</b>	<b>100,585.92</b>
<b>EXPENSES</b>														
<b>Administrative</b>														
Collection costs	35.00	70.00	0.00	0.00	0.00	0.00	0.00	20.00	0.00	0.00	0.00	0.00	125.00	0.00
Late Notice Fees	0.00	40.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	40.00	0.00
Copies	25.60	62.30	99.80	193.40	36.40	42.20	20.40	19.20	70.60	61.40	29.20	19.20	679.70	340.00
Insurance	0.00	0.00	0.00	1,729.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,729.00	1,674.75
Legal Fees	0.00	7,250.70	7,707.00	664.00	4,800.00	(7,984.20)	3,304.00	3,000.00	3,000.00	3,140.00	2,056.00	175.00	27,112.50	40,000.00
Management fee	800.00	800.00	800.00	800.00	800.00	800.00	800.00	800.00	800.00	800.00	800.00	800.00	9,600.00	9,600.00
Mass Mailing	0.00	0.00	0.00	61.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	61.16	0.00
Office expense	86.52	76.36	242.86	127.99	7.58	7.25	77.68	1.26	27.62	1.94	1.76	2.44	661.26	165.00
Additional Services	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	400.00	0.00	0.00	400.00	0.00
Postage	20.05	10.61	53.54	31.66	32.59	8.84	7.44	4.74	11.30	5.41	4.06	4.06	194.30	170.00
Audit - tax preparation	0.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	200.00	320.00
Website	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	350.00
Taxes - other	0.00	0.00	0.00	60.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	60.00	60.00
<b>TOTAL Administrative</b>	<b>967.17</b>	<b>8,309.97</b>	<b>9,103.20</b>	<b>3,667.21</b>	<b>5,676.57</b>	<b>(7,125.91)</b>	<b>4,209.52</b>	<b>3,845.20</b>	<b>3,909.52</b>	<b>4,408.75</b>	<b>2,891.02</b>	<b>1,000.70</b>	<b>40,862.92</b>	<b>52,679.75</b>
<b>Landscaping</b>														
Landscape - contract	480.00	0.00	1,000.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	5,980.00	5,980.00
Landscaping - Misc Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,240.00
Landscaping - tree trimmit	0.00	0.00	0.00	0.00	0.00	180.00	816.00	0.00	0.00	0.00	0.00	0.00	996.00	0.00
Sprinkler repair	0.00	0.00	0.00	0.00	0.00	0.00	258.65	0.00	28.00	0.00	0.00	149.75	436.40	0.00
Seed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	675.00	0.00	675.00	0.00

# Exhibit 6

EXHIBIT A

DATE      TIME    ATTORNEY      DESCRIPTION OF ATTORNEY FEES  
INCURRED

02/16/2017	0.4	AHS	Draft e-mails to Michael Bengson and manager regarding representation. Provide advice.
02/16/2017	0.3	AHS	Conference with Mr. Anderson and Ms. Martin regarding transition of representation and requested documents.
02/16/2017	0.3	AHS	Conference with Michael Bengson regarding representation and facts of the case.
02/16/2017	2.4	AHS	Review pleadings and documents sent by client regarding litigation. Contemplate same.
02/16/2017	0.3	AHS	Conference with manager regarding facts of the case. Obtain additional information.
02/17/2017	0.2	NDP	Draft e-mail to Ms. Martin and convey Notice of Appearance and Stipulation for Substitution of Counsel and proposed Order. Review responses to same.
02/17/2017	0.2	NDP	Revise Notice of Appearance of Counsel and Stipulation for Substitution of Counsel and proposed Order as requested by Ms. Martin.
02/17/2017	1.0	AHS	Draft and send Litigation Strategy Letter to client.
02/17/2017	0.4	NDP	Draft Notice of Appearance of Counsel and Stipulation for Substitution of Counsel and proposed Order.
02/17/2017	2.5	NDP	*No Charge Entry - Savings of \$625.00* Review Documents and assist attorney Shaw regarding the litigation.
02/17/2017	0.4	NDP	Obtain copy of Administrative Law Judge Order involved in the litigation; save same to file.
02/17/2017	0.2	NDP	Continue revisions on Stipulation for Substitution of Counsel and proposed Order requested by Ms. Martin.
02/17/2017	0.8	NDP	Draft Expedited Motion to Continue Evidentiary Hearing and Proposed Order.
02/21/2017	0.2	NDP	Receive revised and signed Stipulation to Substitution of Counsel with proposed Order; save to file; electronically file same and send with runner to be hand delivered to judge.
02/22/2017	0.2	NDP	E-mail to Clark Hill requesting copies of the Plaintiff's exhibits for the Evidentiary Hearing set for February 28, 2017; receive response that Plaintiff has not yet submitted his actual exhibits.

1	02/22/2017	0.2	NDP	E-mail to Mr. Whitmer requesting copies of exhibits listed in his Exhibit List for the Evidentiary Hearing set for February 28, 2017; save e-mail to file.
2				
3	02/22/2017	0.2	NDP	Telephone call to Judge Anderson's assistant; no answer; left voicemail requesting call back to confirm expedited motion to continue Evidentiary Hearing has been received and check status of same.
4				
5				
6	02/22/2017	0.4	AHS	Receive e-mail from manager requesting A.R.S. 33-1260(A)(3)(g) Disclosure Statement. Send requested A.R.S. 33-1260(A)(3)(g) Disclosure Statement to manager.
7				
8	02/23/2017	0.2	NDP	Second telephone call to Judge Anderson's assistant; no answer; left voice mail requesting call back to confirm expedited Motion to Continue Evidentiary Hearing has been received and check status of same.
9				
10	02/23/2017	0.5	AHS	Conference with Mr. Whitmer regarding status of case, postponement of upcoming hearing and potential settlement negotiations.
11				
12	02/23/2017	0.4	AHS	Draft e-mail to client regarding conversation with Mr. Whitmer and potential settlement. Provide advice.
13				
14	02/23/2017	0.2	AHS	Draft e-mail to client regarding potential "mini-mediation."
15	02/23/2017	1.0	AHS	Review Whitmer's Evidentiary Hearing Memo. Contemplate same.
16	02/23/2017	0.2	AHS	Review Order to reschedule Hearing. Calendar dates.
17	02/23/2017	0.2	AHS	Draft e-mail to client regarding temporary cancellation of settlement negotiations.
18	02/23/2017	1.0	AHS	Review list of Exhibits for Evidentiary Hearing filed by Mr. Anderson. Contemplate same.
19				
20	02/23/2017	0.3	AHS	Meeting with manager to discuss ratification of 2016 budget and effects on litigation. Provide advice.
21	02/23/2017	1.4	AHS	Review list of Exhibits for Evidentiary Hearing filed by Mr. Whitmer. Contemplate same.
22	02/24/2017	0.5	AHS	Review Casita #21 - Sublease - Whitmer to determine whether Plaintiff Whitmer has standing to assert his claims.
23	02/24/2017	0.2	AHS	Review Special Warranty Deed conveying 1% interests to Whitmer and contemplate whether same conveys a membership interest to Whitmer.
24				
25				
26	02/24/2017	0.3	AHS	Review Association governing documents to determine definition of Member.
27	02/24/2017	0.2	AHS	Draft e-mail to client providing advice concerning the Membership Status of Whitmer.
28				

1	02/24/2017	0.3	AHS	Conference with Mr. Bengson regarding Membership of Whitmer and trial strategy. Provide advice.
2	02/24/2017	0.4	NDP	Conference with manager regarding 2017 ballot cover letter; review cover letter provide recommendation for revisions; discuss same with manager.
3				
4	02/27/2017	0.1	AHS	Conference with Mr. Whitmer regarding Stipulation to Reschedule Evidentiary Hearing. Explain additional rational for extension being considered for settlement offer and vacation of potential witness.
5				
6				
7	02/27/2017	0.3	AHS	Teleconference with Board regarding status of case and how best to move forward. Provide advice.
8				
9	02/27/2017	0.6	AHS	Draft Stipulation and Order to Extend Evidentiary Hearing date to accommodate Bengson. Send same to opposing party for signature.
10				
11	02/27/2017	0.2	AHS	Receive e-mail from Whitmer denying request to execute Stipulation and Order to Extend Evidentiary Hearing date to accommodate Bengson.
12				
13	02/27/2017	1.6	NDP	Review relevant statutes and case law in preparation for drafting Motion to Dismiss.
14	02/28/2017	5.7	NDP	Draft Motion to Dismiss.
15	02/28/2017	1.0	NDP	Review Motion to Dismiss. Finalize same for filing.
16	02/28/2017	0.5	AHS	Review Settlement offer from Whitmer. Discuss same with client. Respond to settlement offer and present counter-offer.
17				
18	02/28/2017	0.2	NDP	E-mail to manager requesting Association governing documents; response from manager providing same; save to file.
19				
20	02/28/2017	0.2	NDP	E-mail from manager providing 2016 financial statement in preparation for ratifying the 2016 budget; save to file.
21	03/01/2017	0.2	AHS	Receive e-mail from Whitmer changing his contact e-mail address. Respond to same and verify contact e-mail address.
22				
23	03/01/2017	0.2	AHS	Receive e-mail from Whitmer regarding witness notification concerning upcoming Hearing. Respond to same.
24				
25	03/02/2017	0.2	NDP	E-mail from previous counsel regarding status of file being sent to firm for takeover of files.
26	03/02/2017	0.3	NDP	E-mails with owner regarding serving the witnesses and clarification regarding same.
27				
28	03/02/2017	0.2	AHS	Review e-mail from Whitmer regarding request for meeting. Respond to same.

1	03/03/2017	0.4	NDP	Review exhibit list from Mr. Whitmer; e-mail Mr. Whitmer requesting actual exhibits filed.
2	03/03/2017	2.7	NDP	Gather documents in preparation for submitting Exhibit list to court and opposing party; draft exhibit list; file same.
3	03/03/2017	1.3	NDP	Meeting with manager regarding status of documents requested and provide specific instructions on what is needed.
4	03/03/2017	0.2	NDP	Telephone conference with Judge Anderson's assistant regarding submission of the Respondents' List of Exhibits.
5	03/03/2017	0.2	NDP	E-mail to Mr. Whitmer forwarding Respondents' List of Exhibits with Exhibits attached; save same to file.
6	03/05/2017	0.2	AHS	Receive e-mail from Owner regarding allegations of Rule 11 violations; contemplate same.
7	03/06/2017	0.2	NDP	Receive and review Minute Entry from the Superior Court Vacating the Evidentiary Hearing regarding the Petition for Order to Show Cause; save same to file.
8	03/06/2017	0.2	NDP	E-mail to Board of Directors and Manager forwarding the Minute Entry from the Superior Court Vacating Evidentiary Hearing regarding the Petition for Order to Show Cause; save to file.
9	03/06/2017	0.2	NDP	E-mail to Mr. Whitmer forwarding the Minute Entry from the Superior Court Vacating Evidentiary Hearing regarding the Petition for Order to Show Cause; save to file.
10	03/06/2017	0.2	NDP	Respond to Owner regarding Rule 11 violation allegations; save same to file.
11	03/06/2017	0.6	NDP	Receive and review Plaintiff's Exhibits for Evidentiary Hearing; save to file.
12	03/06/2017	0.2	NDP	Receive and review letter from the Office of Administrative Hearings to Mr. Whitmer regarding the proper jurisdiction over an enforcement of an Administrative Law Order; contemplate same and save to file.
13	03/06/2017	0.2	NDP	E-mail to client forwarding the letter from the Office of Office of Administrative Hearings to Mr. Whitmer regarding the proper jurisdiction over an enforcement of an Administrative Law Order.
14	03/10/2017	0.2	NDP	Review file and send client e-mail providing case update; save same to file.
15	03/12/2017	1.0	AHS	Review and analyze Response to Motion to Dismiss.
16	03/14/2017	0.2	NDP	Receive and review Notice of Errata filed by Plaintiff regarding his Response to the Motion to Dismiss; contemplate same.

1	03/16/2017	4.4	NDP	Review relevant Arizona Law. Draft Reply in Support of Motion to Dismiss.
2	03/16/2017	1.0	AHS	Review and finalize Reply in Support of Motion to Dismiss. File same.
3	03/20/2017	0.6	AHS	Review e-mails from client regarding potential settlement. Propose a potential settlement to client. Send same.
4	03/20/2017	0.8	AHS	Draft proposed settlement letter for client approval. Receive requests for revisions. Revise same and seek Association approval to convey.
5	03/21/2017	0.2	NDP	Receive authorization from the Board to send Mr. Whitmer the settlement letter; confirm same via e-mail and e-mail settlement letter to Mr. Whitmer.
6	03/21/2017	0.3	AHS	Receive and review Minute Entry Dismissing lawsuit for lack of subject matter jurisdiction; save same to file.
7	03/21/2017	0.2	AHS	Receive and review minute entry regarding the release of exhibits provided for Order to Show Cause Hearing; save same to file.
8	03/21/2017	0.4	AHS	Draft e-mail to client regarding the Order Dismissing the lawsuit and the potential changes to the settlement offer to Whitmer; send same and request conference call with Board as soon as possible.
9	03/21/2017	0.2	NDP	E-mail to Clark Hill regarding the Superior Court Minute Entry Dismissing the lawsuit and requesting an estimate of attorney fees and costs for potential settlement with Mr. Whitmer.
10	03/21/2017	0.2	NDP	Telephone call with Paige Martin of Clark Hill regarding the Superior Court Minute Entry dismissing the lawsuit and requesting an estimate of attorney fees and costs for potential settlement with Mr. Whitmer; Ms. Martin advised this may take some time due to only one billing matter set up for all Whitmer matters.
11	03/21/2017	0.5	NDP	Conference call with attorney Shaw regarding the Dismissal of the Superior Court lawsuit and what settlement steps and continued resolution options the Association has available.
12	03/21/2017	0.2	NDP	Calendar deadline to submit Proposed Form of Order for Superior Court lawsuit.
13	03/21/2017	0.5	AHS	Conference call with Barrie and Steve regarding Dismissal Order. Explain procedure for obtaining attorney fees through the court fees. Discuss potential global settlement options.
14	03/21/2017	0.4	NDP	Revise settlement proposal based on discussion with Board

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			members and Superior Court case dismissal.
03/21/2017	0.3	NDP	Draft e-mail to Board and manager regarding Mr. Shaw's telephone conference with Board members and options to proceed; save same to file; awaiting Board decision.
03/21/2017	0.2	NDP	Receive e-mail from Mr. Whitmer regarding filing a lawsuit in the Office of Administrative Hearings; save to file.
03/21/2017	0.4	NDP	E-mail to client forward Mr. Whitmer's e-mail to the Office of Administrative Hearings and Association's options to proceed; save to file.
03/22/2017	0.8	AHS	Review various e-mails regarding settlement positions. Respond to same with advised settlement position and provide advice.
03/22/2017	0.5	AHS	Review e-mail from client conveying approval to convey settlement. Revise settlement letter and send same to client. Convey same to opposing party.
03/23/2017	0.4	AHS	Review Whitmer's rejection of the Association's counter-offer. Contemplate same.
03/23/2017	0.4	AHS	Draft e-mail to Association regarding Whitmer's rejection of settlement offer. Provide advice.
03/27/2017	0.2	AHS	Review e-mails from client providing authorization to proceed with Attorney's Fees Application. Respond to same.
03/27/2017	0.2	AHS	Conference with State Farm adjuster regarding potential insurance coverage. Provide summary of court fees case and current status.
03/27/2017	0.3	NDP	E-mail from insurance representative requesting certain pleadings; review file; respond to insurance representative providing documents requested.
03/27/2017	0.4	NDP	Receive and review Plaintiff's Motion to Reconsider with Exhibits, note second page illegible, save to file.
03/29/2017	0.4	NDP	Receive Minute Entry from Court setting briefing deadlines for Motion to Reconsider; calendar same; save to file.
03/29/2017	0.2	NDP	E-mail to manager forwarding Minute Entry from Court setting briefing deadlines for Motion to Reconsider and advising of deadlines to inform the Board of Directors regarding the same.
03/29/2017	0.2	NDP	E-mail to Whitmer requesting legible copy of the Motion to Reconsider; save to file.
03/29/2017	0.2	NDP	Telephone conference with clerk of court regarding online access to court documents.

1	03/29/2017	0.2	NDP	Obtain access to online case filings; retrieve legible Motion to Reconsider; save to file in preparation for drafting response.
2				
3	03/30/2017	2.7	NDP	Review and analyze attorney fees and costs; begin drafting Affidavit in Support of Application for Award of Attorney Fees pursuant to Court's Minute Entry.
4				
5	03/30/2017	0.8	NDP	Draft Application for Award of Attorney fees.
6	04/04/2017	1.0	NDP	Review file and conduct legal research in preparation for drafting Response to Motion to Reconsider.
7				
8	04/05/2017	1.0	AHS	Review and finalize Response to Motion to Reconsider.
9	04/05/2017	1.6	NDP	Draft Response to Motion to Reconsider and verify citations regarding same.
10	04/06/2017	0.2	NDP	E-mail from Paige with Clark Hill advising she is drafting fee Application and Affidavit to send to firm for filing. Responded advising I will follow up next week.
11				
12	04/07/2017	0.3	NDP	Draft Notice of Lodging Proposed Judgment.
13	04/07/2017	0.4	NDP	Draft Statement of Costs.
14	04/07/2017	0.8	NDP	Review and finalize Affidavit of Attorney in Support of Attorney Fees Application.
15	04/07/2017	0.8	NDP	Draft Proposed Form of Judgment.
16	04/11/2017	0.2	NDP	E-mails with previous counsel regarding status of attorney fee application, affidavit and statement of costs.
17	04/12/2017	0.2	NDP	E-mail from Board President forwarding his direct communications with Clark Hill regarding the fee applications and instruction to contact Mr. Anderson directly. Respond to same.
18				
19				
20	04/12/2017	0.2	NDP	E-mails with Paige Martin regarding fee application and pending motion to reconsider.
21				

ATTORNEY	HOURS	RATE	ATTORNEY TOTAL
AUGUSTUS H. SHAW IV (AHS)	22.6	\$250.00	\$5,650.00
NICOLE D. PAYNE (NDP)	37.9	\$250.00	\$9,475.00
NICOLE D. PAYNE (NDP)	2.5	\$0.00	\$0.00

ATTORNEY FEES INCURRED TOTAL: \$15,125.00

## CLARK HILL PLC

<u>Date</u>	<u>Name / Invoice Number</u>	<u>Hours</u>	<u>Amount</u>	<u>Description</u>
1/3/2017	Robert G. Anderson	0.8	\$284.00	Telephone call from M. Bengson regarding Order to Show Cause.
1/11/2017	Robert G. Anderson	2.2	\$781.00	Prepare answer to Whitmer Compliant.
1/18/2017	Robert G. Anderson	2	\$710.00	Review Exhibits to Complaint (.5); review and revise answer to Compliant (.7); meeting with M. Bengson regarding answer (.5); prepare request for continuance of hearing (.3).
1/23/2017	Robert G. Anderson	0.3	\$106.50	Telephone call to M. Bengson regarding affidavit for hearing.
1/25/2017	Robert G. Anderson	2.1	\$745.50	Review Complaint; review 2014 Administrative Order, review 2016 Annual Meeting documents; prepare affidavit for M. Bengson.
1/26/2017	Robert G. Anderson	1.5	\$532.50	Review and revise affidavit of M. Bengson; prepare exhibits; telephone call to M. Bengson regarding Affidavit.
1/27/2017	Robert G. Anderson	1.8	\$639.00	Meeting with M. Bengson regarding hearing and affidavit; revise affidavit; attend hearing.
2/9/2017	Paige A. Martin	0.2	\$67.00	Prepare notice of appearance.
2/14/2017	Paige A. Martin	0.2	\$67.00	Meeting with R. Anderson regarding case status.
2/15/2017	Robert G. Anderson	0.3	\$106.50	Telephone call from M. Bengson regarding subpoenas of Board Members; hearing in Superior Court.
2/15/2017	Paige A. Martin	0.3	\$100.50	Meeting with R. Anderson regarding case background.
2/16/2017	Andrea L. Padinha	1.8	\$306.00	Review and analyze documents for inclusion on Exhibit List for upcoming Evidentiary Hearing (.80); prepare Exhibit List for upcoming Evidentiary Hearing (.40); begin preparation of Exhibits for upcoming Evidentiary Hearing (60).
2/16/2017	Paige A. Martin	3	\$1,005.00	Meeting with A. Padinha regarding exhibits, review file to determine what exhibits should be listed.
2/17/2017	Andrea L. Padinha	1.7	\$289.00	Teleconference with Judge Anderson's chambers regarding Exhibit Marking (.10); prepare correspondence to Pro Per Plaintiff regarding Plaintiff's Exhibit List for upcoming Evidentiary Hearing (.10); review and analyze Plaintiff's Exhibit List for upcoming

CLARK HILL PLC

Evidentiary Hearing (.30); revise Defendants' Exhibit List of upcoming Evidentiary Hearing (.20); revise and finalize exhibits for upcoming Evidentiary Hearing (.40); attend Exhibit Marking with Clerk for Judge Anderson (.70).

2/17/2017 Paige A. Martin	4	\$1,340.00	Prepare exhibit list, review opposing party's list of exhibits, prepare motion for substitution of counsel, exchange multiple correspondence with new counsel and with opposing party regarding exhibit lists and substitution.
2/24/2017 Andrea L. Padinha	0.2	\$34.00	Prepare correspondence to N. Payne at Shaw and Lines, LLC regarding Plaintiff's Evidentiary Hearing Memo.
3/21/2017 Paige A. Martin	0.2	\$67.00	Review correspondence and telephone conference with N. Payne regarding attorneys' fees and costs after motion to dismiss ruling, and forward same to R. Anderson.
4/5/2017 Paige A. Martin	0.2	\$67.00	Exchange correspondence with N. Payne and R. Anderson regarding attorneys' fees application.
4/6/2017 Paige A. Martin	0.3	\$100.50	Review correspondence from N. Payne regarding attorneys' fees application (.10); review invoices forwarded by R. Anderson (.10); exchange correspondence with R. Anderson regarding additional invoices (.10).
4/11/2017 Paige A. Martin	0.1	\$33.50	Meeting with C. Kemper regarding materials for affidavit of attorneys' fees and costs (.10); prepare correspondence to N. Payne regarding same (n/c).
4/12/2017 Paige A. Martin	2	\$670.00	Prepare declaration regarding attorneys' fees and statement of costs
<b>TOTALS: BILL:</b>	<b>25.2</b>	<b>\$8,051.50</b>	

**EXHIBIT A**

**DATE      TIME    ATTORNEY      DESCRIPTION OF ATTORNEY FEES  
INCURRED**

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

1				Representatives; contemplate same; save to file.
2	05/30/2017	0.2	AHS	Review e-mail from client regarding name of Judgment and Complaint; respond to same.
3	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.
4				
5				
6	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.
7				
8	06/02/2017	2.3	NDP	Draft Response to Motion to Vacate Hearing.
9	06/05/2017	0.6	NDP	Review and revise Response to Petitioner's Motion to Vacate Judgment and Grant a New Trial.
10	06/06/2017	1.0	AHS	Review and finalize Response to Petitioner's Motion to Vacate Judgment and Grant a New Trial.
11				
12	06/13/2017	0.4	NDP	Draft e-mail to client regarding status of matter and confirm understanding regarding proceeding with garnishment on Judgment.
13				
14	06/13/2017	0.6	NDP	Draft e-mail to client regarding option to garnish and procedure regarding same; request authorization to proceed.
15				
16	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.
17				
18	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.
19				
20	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.
21				
22	06/19/2017	0.1	AHS	Draft e-mail to client regarding call from Thomas Garcia from State Farm and status of potential garnishment.
23				
24	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.
25				
26	06/19/2017	0.5	NDP	E-mail to client regarding conversation with insurance adjuster and request settlement authorization regarding same.
27				
28	06/20/2017	0.4	NDP	Telephone conference with insurance adjuster regarding Board's decision to take no action until the Court rules on

			<b>Whitmer's Motion to Vacate.</b>
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**

# Exhibit 7

**Shaw & Lines, LLC**  
4523 E. Broadway Road  
Phoenix, AZ 85040

Ph: 480-456-1500

Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona  
85082

August 23, 2017

Attention: Evon

File #: WhitmerEnfor  
Inv #: Settle

RE: Whitmer Enforcement Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-28-17	Review file. Review documents regarding violations. Draft and send enforcement violation letter.	1.00	250.00	AHS
Mar-10-17	[REDACTED]	0.20	50.00	NDP
Totals		1.20	\$300.00	
Total Fee & Disbursements for all charges on this matter				\$300.00

TAX ID Number 20-8351140

**PAYMENT DETAILS**

Mar-10-17	250.00
Apr-20-17	50.00
Total Payments	\$300.00

**Shaw & Lines, LLC**  
4523 E. Broadway Road  
Phoenix, AZ 85040

Ph: 480-456-1500

Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona  
85082

August 23, 2017

Attention: Evon

File #: WhitmerFor

Inv #: Settle

RE: Whitmer Foreclosure Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-04-17	[REDACTED]	1.00	250.00	AHS
Aug-07-17	Receive updated ledger, review same. E-mail to manager requesting clarification of ledger balance.	0.20	50.00	NDP
	[REDACTED]	0.60	150.00	NDP
Aug-08-17	E-mails to manager requesting clarification regarding ledger and update on violation status and violation notices. Awaiting response.	0.20	50.00	NDP
	Review updated ledger, balance forward ledger, and governing documents. Confirm existing violations with manager and draft enforcement and collection demand letter to owner. E-mail same to client and owner.	1.50	375.00	NDP
Aug-11-17	Receive e-mail from Board requesting copy of demand letter sent to owner. Respond to same providing requested copy.	0.20	50.00	NDP
Aug-21-17	[REDACTED]	0.80	200.00	AHS

[REDACTED]	[REDACTED]			
[REDACTED]	[REDACTED]	1.00	250.00	NDP
[REDACTED]	[REDACTED]			
[REDACTED]	[REDACTED]			
[REDACTED]	[REDACTED]			
<b>Totals</b>		5.50	<u>\$1,375.00</u>	
<b>Total Fee &amp; Disbursements for all charges on this matter</b>				<u>\$1,375.00</u>

TAX ID Number 20-8351140

**Shaw & Lines, LLC**  
4523 E. Broadway Road  
Phoenix, AZ 85040

Ph: 480-456-1500

Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona  
85082

August 23, 2017

Attention: Evon

File #: WhitWeb  
Inv #: Settle

RE: Whitmer Website Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-27-17	[REDACTED]	1.00	250.00	AHS
Feb-28-17	Draft Cease and Desist Letter regarding Website. Send same.	0.70	175.00	AHS
Mar-10-17	[REDACTED]	0.20	50.00	NDP
	Totals	1.90	\$475.00	

Total Fee & Disbursements for all charges on this matter \$475.00

TAX ID Number 20-8351140

**PAYMENT DETAILS**

Mar-10-17	425.00
Apr-20-17	50.00
Total Payments	<u>\$475.00</u>

**Shaw & Lines, LLC**  
4523 E. Broadway Road  
Phoenix, AZ 85040

Ph: 480-456-1500

Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona  
85082

August 23, 2017

Attention: Evon

File #: WhitmerRecor  
Inv #: Settle

RE: Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Mar-02-17	[REDACTED]	1.00	290.00	AHS
Mar-23-17	[REDACTED]	0.80	216.00	NDP
Aug-17-17	[REDACTED]	0.80	216.00	NDP
Aug-22-17	[REDACTED]	0.50	145.00	AHS
Aug-23-17	[REDACTED]	1.70	493.00	AHS
Totals		4.80	\$1,360.00	

**Total Fee & Disbursements for all charges on this matter**

\$1,360.00

TAX ID Number 20-8351140

**PAYMENT DETAILS**

Apr-20-17

506.00

**Total Payments**

\$506.00

**Shaw & Lines, LLC**  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph: 480-456-1500

Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
 c/o Comerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona  
 85082

August 23, 2017

Attention: Evon

File #: General2254  
 Inv #: Settle

RE: General Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-22-17	Draft proposed mail ballots for ratification of the 2016 and 2017 Budget.	1.20	300.00	AHS
	[REDACTED]	1.00	290.00	AHS
	[REDACTED]			
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	0.50	145.00	AHS
	[REDACTED]			
	[REDACTED]	0.20	58.00	AHS
	[REDACTED]			
	[REDACTED]	0.10	29.00	AHS
	[REDACTED]			
Mar-03-17	[REDACTED]	0.80	232.00	AHS
	[REDACTED]			
	[REDACTED]			
	[REDACTED]	0.20	58.00	AHS

	[REDACTED]			
	[REDACTED]	0.40	116.00	AHS
	[REDACTED]			
	Revise Ballot to ratify 2016 Budget Summary and Profit and Loss Statement of the Association.	0.40	116.00	AHS
	[REDACTED]	0.20	58.00	AHS
Mar-06-17	[REDACTED]	0.50	135.00	NDP
Mar-08-17	[REDACTED]	0.30	81.00	NDP
Mar-12-17	[REDACTED]	1.50	435.00	AHS
Mar-13-17	[REDACTED]	0.40	116.00	AHS
	[REDACTED]	0.40	0.00	NDP
Mar-15-17	[REDACTED]	0.50	145.00	AHS

	[REDACTED]			
	[REDACTED]	0.20	58.00	AHS
Mar-23-17	[REDACTED]	0.70	203.00	AHS
Mar-27-17	[REDACTED]	0.40	116.00	AHS
Mar-30-17	[REDACTED]	1.40	406.00	AHS
	Travel to and conduct annual meeting. Count ballots for quorum purposes and tally votes regarding the Board of Directors election and 2016 and 2017 budget ballots.	2.70	783.00	AHS
	*No Charge Entry - Savings of \$540.00* Travel to and attend annual meeting. Count ballots for quorum purposes and tally votes regarding the Board of Directors election and 2016 and 2017 budget ballots.	2.00	0.00	NDP
Apr-03-17	[REDACTED]	0.70	175.00	NDP
May-04-17	[REDACTED]	0.20	58.00	AHS
Jun-05-17	write off bill per client request	0.00	-58.00	AHS
	<b>Totals</b>	<b>16.90</b>	<b>\$4,055.00</b>	

**Total Fee & Disbursements for all charges on this matter**

**\$4,055.00**

TAX ID Number 20-8351140



# SHAW & LINES, LLC

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road  
Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

November 30, 2017

Attention: Evon

File #: [REDACTED] Super  
Inv #: 48430

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Nov-14-17	[REDACTED]	0.30	75.00	AHS
	[REDACTED]			
	[REDACTED]	0.20	50.00	AHS
	[REDACTED]			
Nov-17-17	[REDACTED]	0.20	50.00	AHS
	[REDACTED]			
	Totals	0.70	\$175.00	

Total Fee & Disbursements

\$175.00

Balance Now Due

GL Code: 8540 Amount: \$ 175.00  
GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

\$175.00

TAX ID Number 20-8351140

DEC 01 2017

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
Approved: [Signature] Date: 12/5



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

not an error

SL Code: 8540 Amount: \$ 3000  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

SEP 01 2017

Ph:480-456-1500

Fax:480-456-1615

Approved: EP Date: 9/12/17  
 August 31, 2017

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

File #: WhitmerFor  
 Inv #: 48033

Attention: Evon

RE: Whitmer Foreclosure Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-04-17	[REDACTED]	1.00	250.00	AHS
	[REDACTED]			
Aug-07-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]			
	[REDACTED]	0.60	150.00	NDP
Aug-08-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]			
	[REDACTED]	1.50	375.00	NDP
	[REDACTED]			
Aug-11-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]			
Aug-21-17	[REDACTED]	0.80	200.00	AHS



Totals

3.20

\$800.00

**Total Fee & Disbursements**

\$800.00

**Balance Now Due**

\$800.00

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
**SEP 01 2017**  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

August 31, 2017

Attention: Evon

File #: WhitmerSuper  
 Inv #: 48032

RE: R.L. Whitmer and Colleen London - Superior Court Lawsuit

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-03-17	[REDACTED]	0.20	50.00	AHS
Aug-04-17	[REDACTED]	0.60	150.00	AHS
	[REDACTED]	0.60	150.00	NDP
Aug-14-17	[REDACTED]	0.40	100.00	AHS
Aug-22-17	[REDACTED]	1.00	250.00	AHS
	[REDACTED]	0.20	50.00	NDP
Aug-28-17	[REDACTED]	0.20	50.00	NDP

[REDACTED]

Aug-28-17

1.00	250.00	NDP
0.30	75.00	AHS
1.60	400.00	NDP

Totals 7.40 \$1,850.00

**Total Fee & Disbursements** \$1,850.00

**Balance Now Due** \$1,850.00

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

August 31, 2017

Attention: Evon

File #: WhitmerRecor

Inv #: 48034

RE: Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-17-17	[REDACTED]	0.80	216.00	NDP
Aug-22-17	[REDACTED]	0.50	145.00	AHS
Aug-23-17	[REDACTED]	1.70	493.00	AHS
Aug-24-17	[REDACTED]	0.40	116.00	AHS
	Totals	3.40	\$970.00	
	Total Fee & Disbursements			\$970.00
	Balance Now Due			\$970.00

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

September 30, 2017

Attention: Evon

File #: WhitmerSuper

Inv #: 48169

RE: R.L. Whitmer and Colleen London - Superior Court Lawsuit

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-20-17	[REDACTED]	0.30	75.00	NDP
Sep-21-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]	0.20	50.00	NDP
Sep-29-17	[REDACTED]	0.30	75.00	NDP
	Totals	1.00	\$250.00	

**Total Fee & Disbursements**

**\$250.00**

**Balance Now Due**

**\$250.00**

TAX ID Number 20-8351140

GL Code: 8540 Amount: \$ 3,000  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

OCT 02 2017

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 Approved: [Signature] Date: 10/31/17





**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

September 30, 2017

Attention: Evon

File #: WhitmerRecor

Inv #: 48171

RE: Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-21-17	[REDACTED]	0.30	75.00	NDP
Sep-22-17	[REDACTED]	0.30	87.00	AHS
<b>Totals</b>		<b>0.60</b>	<b>\$162.00</b>	

**Total Fee & Disbursements**

**\$162.00**

**Balance Now Due**

**\$162.00**

TAX ID Number 20-8351140

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

OCT 02 2017

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 Approved: \_\_\_\_\_ Date: \_\_\_\_\_



**SHAW & LINES, LLC**  
HOA & CONDO LAWYERS  
HOAGUY.COM

4523 E. Broadway Road  
Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

October 27, 2017

Attention: Evon

File #: WhitmerJust

Inv #: 48200

RE: R.L. Whitmer and Colleen London - Lot 21 - Justice Court Lawsuit

**DISBURSEMENTS**

Oct-27-17	Appellee Filing Fee - Whitmer v. Hilton Casitas	140.00
	Totals	<u>\$140.00</u>
	<b>Total Fee &amp; Disbursements</b>	<u><b>\$140.00</b></u>
	<b>Balance Now Due</b>	<u><b>\$140.00</b></u>

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
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Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner

September 30, 2017

c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Attention: Evon

NOV 01 2017

File #: WhitmerFor  
 Inv #: 48170

RE: Whitmer Foreclosure Matter

GL Code: 8510 Amount: \$ 744.  
 Approved: EP Date: 11/13

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-11-17	[REDACTED]	0.50	125.00	NDP
Sep-14-17	[REDACTED]	1.00	250.00	AHS
Sep-15-17	[REDACTED]	2.40	600.00	NDP
Sep-19-17	[REDACTED]	0.20	50.00	NDP
Totals		4.10	\$1,025.00	
Total Fee & Disbursements				\$1,025.00
Balance Now Due				\$1,025.00



# SHAW & LINES, LLC

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c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

October 31, 2017

NOV 01 2017

File #: WhitmerSuper

Attention: Evon

GL Code: 8510 Amount: \$ 950

Inv #: 48316

Approved: EP Date: 11/13

RE: R.L. Whitmer and Colleen London - Superior Court Lawsuit

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Oct-03-17	[REDACTED]	0.30	75.00	NDP
Oct-06-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]	0.30	75.00	NDP
	[REDACTED]	0.70	175.00	NDP
Oct-11-17	[REDACTED]	0.20	50.00	NDP
	[REDACTED]	0.20	50.00	NDP
	[REDACTED]	0.20	50.00	NDP
Oct-13-17	[REDACTED]	0.20	50.00	NDP

	[REDACTED]	0.20	50.00	NDP
	[REDACTED]	0.20	50.00	NDP
Oct-17-17	[REDACTED]	0.30	75.00	NDP
	[REDACTED]	0.30	75.00	NDP
	[REDACTED]	0.10	25.00	NDP
	[REDACTED]	0.10	25.00	NDP
Oct-27-17	[REDACTED]	0.30	75.00	AHS
	<b>Totals</b>	3.80	<u>950.00</u>	

**Total Fee & Disbursements** \$950.00

**Balance Now Due** \$950.00

TAX ID Number 20-8351140



# SHAW & LINES, LLC

COUNSELORS TO COMMUNITY ASSOCIATIONS

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Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner:  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

October 31, 2017

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

File #: WhitmerEnfor

Inv #: 48317

Attention: Evon

NOV 01 2017

RE: Whitmer Enforcement Matter

GL Code: 8540 Amount: \$ 200  
Approved: EP Date: 11/13

## DISBURSEMENTS

Oct-23-17	Litigation Guarantee - Whitmer	200.00
	Totals	<u>\$200.00</u>
	<b>Total Fee &amp; Disbursements</b>	<u><b>\$200.00</b></u>
	<b>Balance Now Due</b>	<u><b>\$200.00</b></u>

TAX ID Number 20-8351140



# SHAW & LINES, LLC

COUNSELORS TO COMMUNITY ASSOCIATIONS

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Phoenix, AZ 85040

Ph:480-456-1500

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The Hilton Casitas Council of Homeowner  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

September 30, 2017

NOV 01 2017

Attention: Evon

GL Code: 8540 Amount: \$ 162  
Approved: EP Date: 11/13

File #: WhitmerRecor  
Inv #: 48171

RE: Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-21-17	[REDACTED]	0.30	75.00	NDP
Sep-22-17	[REDACTED]	0.30	87.00	AHS
Totals		0.60	\$162.00	
Total Fee & Disbursements				\$162.00
Balance Now Due				\$162.00

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
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 Phoenix, AZ 85040

Ph:480-456-1500

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The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

October 31, 2017

GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
 GL Code: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

File #: WhitmerFor  
 Inv #: 48318

Attention: Evon

NOV 01 2017

RE: Whitmer Foreclosure Matter

GL Code: 8510 Amount: \$ 0  
 Approved: EP Date: 11/13

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Oct-04-17	[REDACTED]	0.30	75.00	NDP
Oct-09-17	[REDACTED]	0.10	25.00	NDP
	[REDACTED]	0.10	25.00	NDP
	[REDACTED]	0.20	50.00	NDP
<b>Totals</b>		<b>0.70</b>	<b>\$175.00</b>	
<b>Total Fee &amp; Disbursements</b>				<b>\$175.00</b>
<b>Balance Now Due</b>				<b>\$175.00</b>

TAX ID Number 20-8351140

**Shaw & Lines, LLC**  
4523 E. Broadway Road  
Phoenix, AZ 85040

Telephone: 480-456-1500 Fax: 480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

As at Nov 14, 2017  
Interest Charge To Nov 14, 2017

**REMINDER NOTICE**

RE: Whitmer Enforcement Matter

Bill Date	Matter #	Inv #	Billed	Interest	Paid	Due	Rate	Aging
Oct -31-17	Whitmer	Enfo48317	200.00	0.00	0.00	200.00	0.00%	<=30 days
Totals			\$200.00	\$0.00	\$0.00	\$200.00		

48317

Balance Due and Owing

~~\$200.00~~  
130<sup>00</sup>

# Exhibit 8

**HILTON CASITAS COUNCIL OF HOMEOWNERS HOA  
2018 PROPOSED BUDGET**

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	ANNUAL	Per Casita	
29 NUMBER OF CASITAS:															
29 Casitas @ \$261.14															
<b>REVENUES:</b>															
5010: Assessments	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 7,573.06	\$ 90,876.72	\$ 3,133.68	
5040: Interest Income	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50	\$ 6.00	\$ 0.21	
Sewer "NEW" avg amount per casita total	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 9,707.88	\$ 334.75	
<b>TOTAL REVENUES</b>	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 8,382.55	\$ 100,590.60	\$ 3,468.64	
<b>EXPENSES:</b>															
<b>ADMINISTRATIVE</b>															
8520: Copies	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 900.00	\$ 31.03	
8530: Insurance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,000.00	\$ 86.21	
8540: Legal Fees	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 3,333.00	\$ 40,000.00	\$ 1,379.31	
8550: Management fee	\$ 800.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 835.00	\$ 9,985.00	\$ 344.31	
8590: Office expense	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 600.00	\$ 21.41	
8600: Postage	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 564.00	\$ 19.45	
8610: Professional fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200.00	\$ 6.90	
8633: Taxes - other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60.00	\$ 2.07	
<b>TOTAL ADMINISTRATIVE</b>	\$ 4,305.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,340.00	\$ 4,344.00	\$ 54,907.00	\$ 1,893.41	
<b>LANDSCAPING</b>															
8010: Landscaping - contract	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 6,300.00	\$ 217.24	
8015: Landscaping - Misc	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 700.00	\$ 24.14	
8050: Landscaping - Tree trimming	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,056.80	\$ 36.44	
8060: Sprinkler Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 600.00	\$ 20.69	
<b>TOTAL LANDSCAPE</b>	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 525.00	\$ 8,656.80	\$ 298.51	
<b>REPAIRS AND MAINTENANCE</b>															
8336: Gates Maintenance	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 5,400.00	\$ 186.21	
GATE EQUIPMENT "NEW"	\$ 100.00	\$ 3,500.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 4,600.00	\$ 158.62	
8355: Street Sweeping	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 1,200.00	\$ 41.38	
8390: Repairs - other	\$ 500.00	\$ -	\$ -	\$ 500.00	\$ -	\$ -	\$ 500.00	\$ -	\$ -	\$ 500.00	\$ -	\$ -	\$ 2,000.00	\$ 68.97	
8395: Supplies - other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>TOTAL REPAIRS &amp; MAINT</b>	\$ 1,150.00	\$ 4,050.00	\$ 650.00	\$ 1,150.00	\$ 650.00	\$ 650.00	\$ 1,150.00	\$ 650.00	\$ 650.00	\$ 1,150.00	\$ 650.00	\$ 650.00	\$ 19,200.00	\$ 455.17	
<b>UTILITIES</b>															
8420: Sewer - based on 2017 avg expenses	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 808.99	\$ 9,707.88	\$ 334.75	
8400: Electric	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 600.00	\$ 20.69	
8435: Garbage	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 725.00	\$ 8,700.00	\$ 300.00	
8425: Gate Telephone	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 75.00	\$ 900.00	\$ 31.03	
<b>TOTAL UTILITIES</b>	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 1,658.99	\$ 19,907.88	\$ 686.48	
<b>RESERVES</b>															
Reserve Contribution	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 3,916.92	\$ 135.07	
<b>TOTAL RESERVES</b>	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 326.41	\$ 3,916.92	\$ 135.07	
<b>RESERVE EXPENSES</b>															
STREET REPAIR PROJECT "NEW"	\$ 300.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,300.00	\$ 527.59	
<b>TOTAL RESERVE EXPENSES</b>	\$ 300.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,300.00	\$ 527.59	
<b>TOTAL RESERVE CONTRIBUTIONS &amp; OPERATING EXPENSES</b>	\$ 7,965.40	\$ 10,900.40	\$ 10,360.40	\$ 8,300.40	\$ 7,500.40	\$ 7,700.40	\$ 8,857.20	\$ 7,500.40	\$ 7,500.40	\$ 8,300.40	\$ 8,200.40	\$ 7,500.40	\$ 7,504.40	\$ 100,590.60	\$ 3,468.64
<b>NET INCOME (LOSS)</b>	\$ 417.15	\$ (2,517.85)	\$ (1,977.85)	\$ 82.15	\$ 882.15	\$ 682.15	\$ (474.65)	\$ 882.15	\$ 882.15	\$ 82.15	\$ 182.15	\$ 878.15	\$ (0.00)	\$ (0.00)	



# Exhibit 9



# SHAW & LINES, LLC

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road

Phoenix, AZ 85040

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Fax:480-456-1515

The Hilton Casitas Council of Homeowner:

January 31, 2018

c/o Cornerstone Properties

P.O. Box 62073

Phoenix, Arizona 85082

**Attention:** Evon

File #: General2254

Inv #: 48654

**RE:** General Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-15-18	Review Estoppel Certificate provided by the attorney for Hilton Scottsdale Hotel, tenant under the ground lease, and landlord to the casita properties who will be selling the property and assigning their interests under the ground lease and individual casita leases and e-mail regarding same.	1.00	295.00	AHS
	Draft e-mail to the attorney Hilton Scottsdale Hotel, tenant under the ground lease, and landlord to the casita properties who will be selling the property and assigning their interests under the ground lease and individual casita leases regarding their request for the Association to execute the Estoppel.	0.20	59.00	AHS
	Conference with manager regarding Estoppel Certificate provided by the attorney for Hilton Scottsdale Hotel, tenant under the ground lease, and landlord to the casita properties who will be selling the property and assigning their interests under the ground lease and individual casita leases.	0.40	118.00	AHS
Jan-17-18	Review e-mail from attorney for Hilton Scottsdale Hotel regarding Estoppel Certificate. Respond to same.	0.40	118.00	AHS
	Review e-mail from attorney for Hilton	0.40	118.00	AHS

Scottsdale Hotel regarding requested revisions to Estoppel Certificate. Respond to same.

	Revise Estoppel certificate as requested by attorney for Hilton Scottsdale Hotel.	0.60	177.00	AHS
Jan-18-18	Review e-mail from the purchaser of the Hilton Scottsdale regarding the Estoppel. Conference with Evon regarding same. Respond to said e-mail.	0.50	147.50	AHS
	Review second e-mail from the purchaser of the Hilton Scottsdale regarding the Estoppel. Respond to said e-mail.	0.40	116.00	AHS
Jan-22-18	Review e-mail from client regarding Estoppel Certificate. Respond to same and list potential issues concerning the Estoppel Certificate.	0.60	177.00	AHS
Jan-23-18	Review Owner Estoppel Certificates provided by client. Respond to e-mail from client regarding same.	0.60	177.00	AHS
	Travel to and attend Annual Meeting.	2.20	649.00	AHS
	[No Charge Entry: Savings of \$476.00] Attend Annual Meeting to discuss status of Whitmer lawsuits.	1.70	0.00	PJW
Jan-30-18	Review e-mails from client regarding Estoppel Certificate and possible conference call. Respond to same.	0.30	88.50	AHS
Jan-31-18	Conference with Gregory Vickowski and other representatives of the hotel regarding the Estoppel Certificate.	0.50	147.50	AHS
	Draft e-mail and leave voicemail with Mr. Bengson regarding information needed to complete Estoppel Certificate.	0.20	59.00	AHS
	Totals	10.00	<u>\$2,446.50</u>	

**Total Fee & Disbursements**

**\$2,446.50**

**Balance Now Due**

**\$2,446.50**



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road

Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner.

February 28, 2018

c/o Cornerstone Properties

P.O. Box 62073

Phoenix, Arizona 85082

File #: General2254

Attention: Evon

Inv #: 48775

RE: General Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-31-18	Conference call with Hilton Hotel representatives concerning Estoppel Certificate changes.	0.20	56.00	PJW
Feb-01-18	Review e-mail from manager regarding approval of budget. Respond to same and provide advice.	0.40	118.00	AHS
	Communicate (with client) . Conference call with Mike (Board President) as to revisions to Estoppel Certificate involving insurance policies.	0.20	56.00	PJW
	Communicate (with client) . Draft email to Evon (Property Manager) requesting all corporate documents of Association.	0.20	56.00	PJW
	Research and review Maricopa county superior and justice court systems and office of administrative hearings for all current lawsuits against the Association, including R.L. Whitmer's lawsuits, to be included in Exhibit B of Estoppel Certificate.	0.90	252.00	PJW
	Review/analyze and summarize email from Corey Hill as to current appeal matters involving the Association and R.L. Whitmer to be included in Exhibit B of Estoppel Certificate.	0.40	112.00	PJW

	Draft/revise Estoppel Certificate to include insurance coverage as discussed in conference call on 2/1/18.	0.30	84.00	PJW
Feb-02-18	Draft summary and analysis of all litigation involving Casita 21 (Whitmer) for Exhibit B of the Estoppel Certificate.	1.00	280.00	PJW
Feb-05-18	Review e-mail from client regarding Whitmer records request concerning the Estoppel Certificate. Respond to same and provide advice.	0.60	177.00	AHS
Feb-08-18	Meet with property manager (Evon) to review current status of Estoppel Certificate as to concerns of potential for negative litigation initiated by Whitmer.; receive and review email chain as to the same.	0.30	84.00	PJW
Feb-09-18	Review e-mail from client regarding the Estoppel and a request for indemnification should Whitmer sue based on the Estoppel. Respond to same and provide advice.	0.30	88.50	AHS
Feb-15-18	Review current global settlement discussions and terms to evaluate the timing leverage of settling all Whitmer issues now with the purchase and sale of the Hilton Hotel.	0.50	140.00	PJW
Feb-16-18	Review several e-mails from client regarding the Estoppel Certificate and communications with the Hotel. Respond to same and provide advice.	1.00	295.00	AHS
	Conference with Michael regarding Estoppel.	0.20	59.00	AHS
Feb-21-18	Review e-mail from Manager regarding Whitmer records request regarding Estoppel. Review documents. Respond to same and provide advice.	1.00	295.00	AHS
Feb-26-18	Review e-mail from Gregory D. Vickowski regarding possible indemnity regarding the Estoppel issue and requesting letter and other documents sent by Whitmer regarding the Estoppel issue. Respond to same and provide requested documents.	0.50	147.50	AHS
	Review e-mail from client regarding Estoppel indemnity agreement and document to cover	0.20	59.00	AHS

payment of the Association's legal fees regarding the Estoppel. Respond to same.

Feb-27-18	Review e-mail from client and Complaint attached regarding lawsuit concerning the Estoppel, records requests and budgetary issues. Respond to same and provide advice.	1.00	295.00	AHS
	Review the Revised Estoppel revised by the Hotel's attorney.	0.60	177.00	AHS
	Draft e-mail to the Hotel's attorney regarding the revised Estoppel and the potential Whitmer Lawsuit regarding same.	0.30	88.50	AHS
	Review the Second Revised Estoppel revised by the Hotel's attorney revised to address potential lawsuit filed by Whitmer.	0.50	147.50	AHS
	Draft e-mail to client regarding Second Revised Estoppel revised by the Hotel's attorney revised to address potential lawsuit filed by Whitmer. Request conference call.	0.20	59.00	AHS
	Review e-mail from the Hotel's attorney regarding the Second Revised Estoppel revised by the Hotel's attorney revised to address potential lawsuit filed by Whitmer.	0.20	59.00	AHS
Feb-28-18	Conference with Association President regarding execution of the Estoppel Agreement. Provide advice.	0.20	59.00	AHS
	Conference with the attorney for the Hotel regarding execution of the Estoppel.	0.20	59.00	AHS
	Totals	11.40	\$3,303.00	
	<b>Total Fee &amp; Disbursements</b>		<b>\$3,303.00</b>	
	<b>Balance Now Due</b>		<b>\$3,303.00</b>	

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner:  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

March 31, 2018

**Attention:** Evon

File #: General2254  
 Inv #: 48906

**RE:** General Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Mar-12-18	Review e-mail from client regarding Whitmer v. Hilton Casitas - New Law Suit - CV 2018-051832. Respond to same and provide advice.	0.20	59.00	AHS
Mar-22-18	Review and analyze letter from Arizona SC Hotel Owner, L.L.C. regarding demand that the Association provide insurance pursuant to Section 7.1 of the CC&Rs.	0.60	177.00	AHS
	Review and analyze letter from Arizona SC Hotel Owner, L.L.C. regarding demand that the Whitmer repaint his house and repair the garage door.	0.60	177.00	AHS
	Review and analyze letter from Arizona SC Hotel Owner, L.L.C. regarding demand that the Association enforce certain violations on the Whitmer property.	0.60	177.00	AHS
Mar-23-18	Attend conference call to discuss various letters sent by Arizona SC Hotel Owner, L.L.C. Provide advice.	1.20	354.00	AHS
	Review e-mails fro Board Members prior to conference call to discuss various letters sent by Arizona SC Hotel Owner, L.L.C.	0.50	147.50	AHS
	[No Charge Entry: savings of \$308] Conference Call with board members and	1.20	0.00	PJW

property manager in re Whitmer issues and recent communications with the Hotel.

Mar-26-18	Review e-mail from client concerning Section 18.,1 of the CC&Rs. Respond to same and provide advice.	0.40	118.00	AHS
Mar-28-18	Receive and review e-mail from Hilton Casitas property manager (Evon) regarding fee schedule, past invoice questions, and request to provide all motions and documents to the board going forward; respond to the same.	0.40	112.00	PJW
Totals		5.70	\$1,321.50	
<b>Total Fee &amp; Disbursements</b>			<b>\$1,321.50</b>	
<b>Balance Now Due</b>			<b>\$1,321.50</b>	

TAX ID Number 20-8351140



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road  
Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner:  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

February 28, 2018

Attention: Evon

File #: WhitmerEnfor

Inv #: 48777

RE: Whitmer Enforcement Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-22-18	Review e-mail from Board member regarding continued violations on property and legal responsibility regarding same. Provide advice.	.60	156.00	AHS
	Totals	0.60	<u>156.00</u>	
	<b>Total Fee &amp; Disbursements</b>			<u><b>\$156.00</b></u>
	<b>Balance Now Due</b>			<u><b>\$156.00</b></u>

TAX ID Number 20-8351140



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road  
Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner.  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

February 28, 2018

**Attention:** Evon

File #: WhitmerFor

Inv #: 48778

**RE:** Whitmer Foreclosure Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-21-18	Review note from Evon today stating that the Board desired that I respond to Whitmer's check dated February 15, 2018, in the amount of \$129.71 in which the Memo line states "Feb due less (eligible) of Judgment." Draft requested response letter. Send same to client for approval.	0.70	182.00	AHS
	Totals	0.70	\$182.00	
	<b>Total Fee &amp; Disbursements</b>			<b>\$182.00</b>
	<b>Balance Now Due</b>			<b>\$182.00</b>

TAX ID Number 20-8351140



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road  
Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner:  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

January 31, 2018

**Attention:** Evon

File #: WhitmerRecor

Inv #: 48641

**RE:** Whitmer Records Request Matter

<b>DATE</b>	<b>DESCRIPTION</b>	<b>HOURS</b>	<b>AMOUNT</b>	<b>LAWYER</b>
Jan-09-18	Review records request of Mr. Whitmer and suggested response. Provide advice regarding same.	0.80	236.00	AHS
	Totals	0.80	<u>236.00</u>	
	<b>Total Fee &amp; Disbursements</b>			<u><b>\$236.00</b></u>
	<b>Balance Now Due</b>			<u><b>\$236.00</b></u>

TAX ID Number 20-8351140



**SHAW & LINES, LLC**  
 COUNSELORS TO COMMUNITY ASSOCIATIONS  
 4523 E. Broadway Road  
 Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowner  
 c/o Cornerstone Properties  
 P.O. Box 62073  
 Phoenix, Arizona 85082

March 31, 2018

**Attention:** Evon

File #: WhitmerRecor  
 Inv #: 48908

**RE:** Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Mar-05-18	Review e-mail from manager regarding <del>Whitmer</del> records request dated February 19, 2018. Review said records request. Draft e-mail to client and provide advice regarding responding to said records request.	0.90	265.50	AHS
	Review e-mail from Mr. Bengson regarding Whitmer records request dated February 28, 2018. Review said records request. Draft e-mail to client and provide advice regarding responding to said records request.	0.90	265.50	AHS
	Totals	1.80	\$531.00	
	<b>Total Fee &amp; Disbursements</b>			<b>\$531.00</b>
	<b>Balance Now Due</b>			<b>\$531.00</b>

TAX ID Number 20-8351140



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road

Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowners  
c/o Cornerstone Properties  
P.O. Box 62073  
Phoenix, Arizona 85082

April 30, 2018

Attention: Evon

File #: WhitmerRecor

Inv #: 49046

RE: Whitmer Records Request Matter

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Apr-03-18	[REDACTED]	1.60	472.00	AHS
Apr-06-18	Review Whitmer request for records dated April 5, 2018. Gather requested records. Draft response to said records. Seek consent to send response.	1.60	472.00	AHS
Apr-09-18	[REDACTED]	0.40	118.00	AHS
Totals		3.60	\$1,062.00	
Total Fee & Disbursements				\$1,062.00
Balance Now Due				\$1,062.00

TAX ID Number 20-8351140



**SHAW & LINES, LLC**

COUNSELORS TO COMMUNITY ASSOCIATIONS

4523 E. Broadway Road

Phoenix, AZ 85040

Ph:480-456-1500

Fax:480-456-1515

The Hilton Casitas Council of Homeowners

April 30, 2018

c/o Cornerstone Properties

P.O. Box 62073

Phoenix, Arizona 85082

File #: General2254

Inv #: 49044

Attention: Evon

RE: General Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Apr-04-18	[REDACTED]	0.40	118.00	AHS
Apr-09-18	[REDACTED]	0.40	118.00	AHS
	[REDACTED]	0.90	265.50	AHS
Apr-10-18	[REDACTED]	1.00	295.00	AHS
	[REDACTED]	0.40	118.00	AHS
	[REDACTED]	0.50	140.00	PJW
Apr-12-18	[REDACTED]	1.00	280.00	PJW
Apr-17-18	[REDACTED]	2.50	700.00	PJW

[REDACTED]

Apr-25-18

[REDACTED]

0.30

88.50

AHS

Totals

7.40

\$2,123.00

**Total Fee & Disbursements**

**\$2,123.00**

**Balance Now Due**

**\$2,123.00**

TAX ID Number 20-8351140

# Exhibit 10

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2017-000273-001 DT

04/13/2018

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT  
C. Avena  
Deputy

COLLEEN LONDON  
R L WHITMER

LISA M BOROWSKY

v.

HILTON CASITAS HOMEOWNERS  
ASSOCIATION (001)

AUGUSTUS H SHAW IV

DREAMY DRAW JUSTICE COURT  
REMAND DESK-LCA-CCC

**MINUTE ENTRY**

**Lower Court Case No. CC2016164084RC.**

The Court has received a certified order from the Court of Appeals dismissing the appeal filed by Hilton Casitas Homeowners Association (“the Association”) in this matter. This Court thus has jurisdiction to rule on the pending Application for Attorneys’ Fees filed by Plaintiffs/Appellees Colleen London and RLWhitmer (“London and Whitmer”).

London and Whitmer seek attorneys’ fees in the amount of \$11,195.00 pursuant to A.R.S. § 12-341.01(A). A.R.S. § 12-341.01 allows a court to award a successful party reasonable attorney fees “to mitigate the burden of the expense of litigation . . .” § 12-341.01(B). The award “need not equal or relate to the attorney fees actually paid or contracted, but the award may not exceed the amount paid or agreed to be paid.” *Id.*

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2017-000273-001 DT

04/13/2018

Commissioner Myra Harris, to whom this matter was previously assigned, ordered that London and Whitmer would be awarded “their reasonable attorneys’ fees and costs on appeal” upon submission of a *China Doll* affidavit by November 7, 2017. (October 16, 2017 Minute Entry, filed October 18, 2017, at 11.) London and Whitmer complied with that Order.

The Association nevertheless argues that such an award is neither reasonable nor warranted under the facts of this case. The Court has considered all relevant factors and finds that an award of attorneys’ fees is appropriate. *Associated Indemnity Corp. v. Warner*, 143 Ariz. 567 (1985). Specifically, the Court has considered: (1) whether the unsuccessful party’s claim or defense was meritorious; (2) whether the litigation could have been avoided or settled and the successful party’s efforts were completely superfluous in achieving the result; (3) whether a fee award would be an extreme hardship; (4) whether the successful party prevailed with respect to all of the relief sought; (5) whether the matter presented a novel legal question; and (6) whether the award would discourage other parties with tenable claims or defenses from litigating them.

The Association also claims that London and Whitmer have submitted duplicate billing entries in the amount of \$550.00, other redundant billings, and have billed for “ancillary issues.”

The Court finds the fee affidavit submitted meets the requirements set forth in *Schweiger v. China Doll Rest., Inc.*, 138 Ariz. 183, 188 (1983). Specifically, the affidavit indicates the agreed upon hourly rate, the attorneys providing service, the time spent, and has sufficient detail to enable the court to assess the reasonableness of the time expended.

Considering all those factors, the Court finds the amount of the reasonable attorneys’ fees to be \$10,000.

London and Whitmer also seek an award of \$340.30 in costs, to which the Association has voiced no objection.

Accordingly,

IT IS ORDERED awarding attorneys’ fees in the amount of \$10,000.

IT IS FURTHER ORDERED awarding costs in the amount of \$340.30.

The certified order dismissing the appeal to the Court of Appeals having been filed,

IT IS FURTHER ORDERED confirming this Court’s previous ruling remanding this matter to the Dreamy Draw Justice Court.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2017-000273-001 DT

04/13/2018

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court.

/s/ Patricia A. Starr

THE HON. PATRICIA A. STARR  
JUDGE OF THE SUPERIOR COURT

**NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any new filings.**

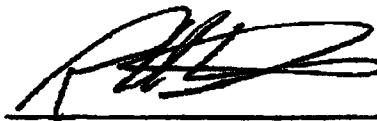
# Exhibit 11

### **DECLARATION OF R. L. Whitmer**

1. I, R. L. Whitmer, have personal knowledge of the matters set forth in this Declaration.
2. My wife, Colleen London, and since 2010 have resided in Casita 21 in the Hilton Casitas condominium development located behind the Scottsdale Hilton located on the southeast corner of Scottsdale Road and Lincoln Drive.
3. As owners of Casita 21, we are members of Hilton Casitas HOA.
4. On March 24, 2016, my wife received an email from Evon Potocki, a management agent for the purported HOA, regarding the March 31, 2016 annual meeting. Attached to the email was a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot.
5. The March 24, 2016 email did not have attached a proposed budget or any HOA financials.
6. On or about March 25, 2016, we discovered a packet in our mailbox from the purported HOA for the March 31, 2016 annual meeting. While the packet contained a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot, the packet did not contain a proposed budget or any HOA financials.
7. During 2016, we did not receive the 2016 HOA budget, nor the ARS §33-1243.J required financial audit/review/compilation.

Pursuant to **Rule 80(i)** of the Arizona Rules of Civil Procedure, I, R. L. Whitmer, declare under the penalty of perjury that this Declaration is true and correct to the best of my information, knowledge and belief.

DATED this 14<sup>th</sup> day of February, 2017.




R. L. Whitmer

## DECLARATION OF COLLEEN LONDON

1. I, Colleen London, have personal knowledge of the matters set forth in this Declaration.
2. My husband, R. L. Whitmer, and I since 2010 have resided in Casita 21 in the Hilton Casitas condominium development located behind the Scottsdale Hilton located on the southeast corner of Scottsdale Road and Lincoln Drive.
3. As owners of Casita 21, we are members of Hilton Casitas HOA.
4. On March 24, 2016, I received an email from Evon Potocki, a management agent for the purported HOA, regarding the March 31, 2016 annual meeting. Attached to the email was a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot.
5. The March 24, 2016 email did not have attached a proposed budget or any HOA financials.
6. On or about March 25, 2016, we discovered a packet in our mailbox from the purported HOA for the March 31, 2016 annual meeting. While the packet contained a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot, the packet did not contain a proposed budget or any HOA financials.
7. During 2016, we did not receive the 2016 HOA budget, nor the ARS §33-1243.J required financial audit/review/compilation.

Pursuant to *Rule 80(i)* of the Arizona Rules of Civil Procedure, I, Colleen London, declare under the penalty of perjury that this Declaration is true and correct to the best of my information, knowledge and belief.

DATED this 17 day of February, 2017.

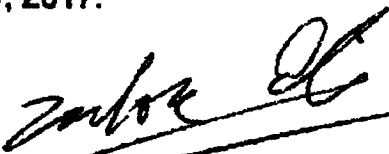
  
\_\_\_\_\_  
Colleen London

### **DECLARATION OF ZADOK ELI**

1. I, Zadok Eli, have personal knowledge of the matters set forth in this Declaration.
2. In 1995 my wife, Hana Eli, and I purchased Casita 18 in the Hilton Casitas condominium development which is located behind the Scottsdale Hilton on the southeast corner of Scottsdale Road and Lincoln Drive.
3. We were residents during all of 2016.
4. On or about March 25, 2016, I discovered a packet in our mailbox from the purported HOA for the March 31, 2016 annual meeting. While the packet contained a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot, the packet did not contain a proposed budget or any HOA financials.
5. During 2016, I did not received the 2016 HOA budget, nor any other 2016 HOA financial reports, including the ARS §33-1243.J required financial audit/review/compilation.

Pursuant to *Rule 80(i)* of the Arizona Rules of Civil Procedure, I, Zadok Eli, declare under the penalty of perjury that this Declaration is true and correct to the best of my information, knowledge and belief.

DATED this 14 day of February, 2017.

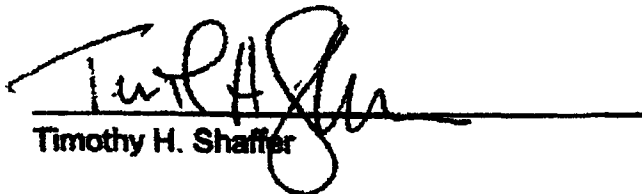
  
\_\_\_\_\_  
Zadok Eli

## **DECLARATION OF TIM SHAFFER**

1. I, Timothy H. Shaffer, have personal knowledge of the matters set forth in this Declaration.
2. In 2005 my wife, Diana Shaffer, purchased Casita 17 in the Hilton Casitas condominium development located behind the Scottsdale Hilton located on the southeast corner of Scottsdale Road and Lincoln Drive.
3. We were residents during all of 2016, and I personally assisted her in handling the HOA matters in 2016.
4. On or about March 25, 2016, I discovered a packet in our mailbox from the purported HOA for the March 31, 2016 annual meeting. While the packet contained a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot, the packet did not contain a proposed budget or any HOA financials.
5. During 2016, she did not receive the 2016 HOA budget, nor any other 2016 HOA financial reports, including the ARS §33-1243.J required financial audit/review/compilation.

Pursuant to *Rule 80(1)* of the Arizona Rules of Civil Procedure, I, Timothy H. Shaffer, declare under the penalty of perjury that this Declaration is true and correct to the best of my information, knowledge and belief.

DATED this 2<sup>nd</sup> day of February, 2017.

  
\_\_\_\_\_  
Timothy H. Shaffer

## DECLARATION OF DONALD LEVIN

1. I, Donald Levin, have personal knowledge of the matters set forth in this Declaration.
2. I am the president of DRL Enterprise Inc., a Delaware corporation, located at 2301 Ravine Way, Glenview, IL 60025
3. Since August 1986 DRL Enterprise Inc. has owned Casita 19 in the Hilton Casitas condominium development located behind the Scottsdale Hilton located on the southeast corner of Scottsdale Road and Lincoln Drive.
4. My primary means of receiving HOA meeting notices, agendas and documents is through email.

---

5. On March 24, 2016 I received an email from Evon Potocki, a management agent for the purported HOA, regarding the March 31, 2016 annual meeting. Attached to the email was a "proposed amended and restated declaration of horizontal property regime," a notice of the annual meeting, a meeting agenda, and a ballot.

---

6. The March 24, 2016 email did not have attached a proposed budget or any HOA financials.

Pursuant to *Rule 80(i)* of the Arizona Rules of Civil Procedure, I, Donald Levin, declare under the penalty of perjury that this Declaration is true and correct to the best of my information, knowledge and belief.

DATED this 16 day of February, 2017.



\_\_\_\_\_  
Donald Levin

# Exhibit 12

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

---

R. L. WHITMER, *Plaintiff/Appellant*,

*v.*

HILTON CASITAS HOMEOWNERS ASSOCIATION, *et al.*,  
*Defendants/Appellees.*

No. 1 CA-CV 17-0543  
FILED 7-10-2018

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Appeal from the Superior Court in Maricopa County  
No. CV2016-055080  
The Honorable Aimee L. Anderson, Judge

**REVERSED AND REMANDED**

---

COUNSEL

R.L. Whitmer, Scottsdale  
*Plaintiff/Appellant*

Shaw & Lines LLC, Phoenix  
By Augustus H. Shaw IV, Patrick J. Whelan  
*Counsel for Defendants/Appellees*

WHITMER v. HILTON CASITAS, et al.  
Opinion of the Court

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OPINION

Judge Kent E. Cattani delivered the opinion of the Court, in which Presiding Judge James B. Morse Jr. and Judge Lawrence F. Winthrop joined.

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CATTANI, Judge:

¶1 R.L. Whitmer appeals from the superior court's judgment dismissing his complaint against Hilton Casitas Homeowners Association ("Hilton Casitas") for lack of subject matter jurisdiction. Whitmer's complaint sought to enforce a final decision resulting from a prior administrative dispute resolution proceeding, part of a process to adjudicate disputes between an owner and a homeowners' association concerning compliance with condominium documents and governing statutes. *See* Ariz. Rev. Stat. ("A.R.S.") §§ 32-2199 to -2199.05. Given the statutory directive that such decisions are "enforceable through contempt of court proceedings," A.R.S. § 32-2199.02(B), and absent any authority establishing that the administrative tribunal itself has jurisdiction to enforce such orders by contempt or otherwise, we hold that the superior court has subject matter jurisdiction to do so. Accordingly, and for reasons that follow, we reverse the dismissal and remand for further proceedings.

FACTS AND PROCEDURAL BACKGROUND

¶2 Hilton Casitas is the homeowners' association for a property in Scottsdale subject to Arizona's laws governing condominiums. *See* A.R.S. tit. 33, ch. 9. Whitmer is a residence owner and a member of Hilton Casitas.

¶3 In 2014, Whitmer filed an administrative petition alleging that Hilton Casitas had violated statutory provisions governing procedures for adopting or amending a budget (specifically, that Hilton Casitas had overspent on legal fees without receiving owners' approval of the increase).<sup>1</sup> *See* A.R.S. § 33-1243(D). The dispute went to a hearing before an

---

<sup>1</sup> As relevant here, Arizona law allows administrative adjudication of disputes between an owner and a homeowners' association concerning compliance with condominium documents or the statutes governing condominiums. *See* A.R.S. §§ 32-2199 to -2199.05; *see also* A.R.S. §§ 41-2198

WHITMER v. HILTON CASITAS, et al.  
Opinion of the Court

administrative law judge (“ALJ”) in the Office of Administrative Hearings (“OAH”), and the ALJ issued a decision in Whitmer’s favor concluding that Hilton Casitas had failed to comply with the statutory provision for amending its budget, and ordered Hilton Casitas to “fully comply with the [statutory requirement] in the future.” Hilton Casitas did not seek judicial review, *see* A.R.S. § 32-2199.02(B), and the ALJ’s order became final.

¶4 Two years later, Whitmer filed this complaint in superior court alleging that Hilton Casitas had failed to comply with the ALJ’s order and seeking enforcement of the decision by contempt. Hilton Casitas answered, then moved to dismiss for (as relevant here) lack of subject matter jurisdiction. *See* Ariz. R. Civ. P. 12(b)(1). Whitmer opposed the motion and included as an exhibit an informational article from OAH, which included the following statement explaining OAH’s view that the superior court was the proper forum for enforcement proceedings:

If the petition item has been decided by a court or previously has been addressed in a hearing before the OAH, it cannot be revisited. OAH has no authority for contempt proceedings or enforcement of prior decisions. However, failure by a party to comply with a decision issued by the OAH may result in the other party seeking enforcement of the Administrative Law Judge’s decision through a contempt of court proceeding in Superior Court.

After full briefing, the superior court granted the motion to dismiss, reasoning that the court’s jurisdiction was limited to judicial review of the ALJ’s ruling (not at issue here) and did not include authority to consider an action to enforce an administrative order by contempt. The court acknowledged the statutory provision stating that the ALJ’s order “is enforceable through contempt of court proceedings,” *see* A.R.S. § 32-2199.02(B), but concluded that the proper forum for such contempt proceedings “is the Administrative Courts, not the Superior Court.”

---

to -2198.05 (2014). The relevant statutory provisions have been renumbered (and redirected from the Department of Fire, Building and Life Safety to the Department of Real Estate) since the time Whitmer filed his petition. *See* 2016 Ariz. Sess. Laws ch. 128, §§ 30–35 (52d Leg., 2d Reg. Sess.). We cite to the current version of the statutes because the provisions material to this decision were not substantively changed. *Compare* A.R.S. §§ 32-2199 to -2199.05, *with* A.R.S. §§ 41-2198 to -2198.05 (2014).

WHITMER v. HILTON CASITAS, et al.  
Opinion of the Court

¶5 Whitmer then emailed OAH, noting the court's ruling and requesting information regarding where to file his contempt complaint. In response, OAH's acting director stated that "there is nothing in OAH's enabling statutes (ARS § 41-1092 et. seq.), that would enable OAH to enforce its own decisions through contempt proceedings that it would hold." Whitmer then filed a timely motion for reconsideration in superior court, attaching as exhibits his correspondence with OAH. After the superior court denied reconsideration, Whitmer filed a motion for new trial, which the court also denied.

¶6 The superior court awarded attorney's fees to Hilton Casitas and entered a final judgment dismissing the case. Whitmer timely appealed, and we have jurisdiction under A.R.S. § 12-2101(A)(1).<sup>2</sup>

## DISCUSSION

### I. Dismissal for Lack of Subject Matter Jurisdiction.

¶7 Whitmer challenges the superior court's determination that it lacked subject matter jurisdiction to consider his complaint. As there are no jurisdictional facts in dispute, we review the court's ruling de novo. *Falcone Bros. & Assocs. v. City of Tucson*, 240 Ariz. 482, 487, ¶ 10 (App. 2016).

¶8 Hilton Casitas argues, and the court agreed, that the superior court lacked subject matter jurisdiction to consider contempt of the ALJ's order, and that OAH itself was the only proper forum for a proceeding to enforce a prior OAH decision under § 32-2199.02(B). But the superior court is a court of general jurisdiction and has "original jurisdiction of . . . [c]ases and proceedings in which exclusive jurisdiction is not vested by law in another court." Ariz. Const. art. 6, § 14(1); *see also id.* § 14(11) (original jurisdiction of "[s]pecial cases and proceedings not otherwise provided for, and such other jurisdiction as may be provided by law"); A.R.S. § 12-123(A). And Hilton Casitas has presented no authority establishing that OAH has authority to enforce its ALJ's decision through contempt proceedings, much less that OAH has exclusive jurisdiction to do so.

---

<sup>2</sup> Although "[t]his court lacks jurisdiction over an appeal from a civil contempt adjudication," *State ex rel. Dep't of Econ. Sec. v. Burton*, 205 Ariz. 27, 30, ¶ 18 (App. 2003), the issue here is whether the superior court properly concluded that it lacked subject matter jurisdiction to hear the request for a contempt finding. *See, e.g., Falcone Bros. & Assocs., Inc. v. City of Tucson*, 240 Ariz. 482, 487, ¶ 10 (App. 2016); *Church of Isaiah 58 Project of Ariz., Inc. v. La Paz County*, 233 Ariz. 460, 462-63, ¶ 9 (App. 2013).

WHITMER v. HILTON CASITAS, et al.  
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¶9 The administrative dispute resolution process at issue here—which produced the ALJ decision Whitmer seeks to enforce—refers contested cases for adjudication before OAH, pursuant to OAH’s procedures. A.R.S. §§ 32-2199, -2199.01(D). The ALJ hearing the case “may order any party to abide by the statute [or] condominium documents . . . and may levy a civil penalty on the basis of each violation.” A.R.S. § 32-2199.02(A). The ALJ’s final order is subject to judicial review if a party properly and timely appeals it. *See* A.R.S. §§ 32-2199.02(B), 41-1092.08(H), 12-901 to -914. Otherwise, the ALJ’s order binds the parties and “is enforceable through contempt of court proceedings.” A.R.S. § 32-2199.02(B).

¶10 Hilton Casitas urges that § 32-2199.02(B) grants OAH exclusive jurisdiction to enforce the ALJ’s order by contempt. Hilton Casitas suggests that because § 32-2199.02(B) references A.R.S. § 41-1092.08 (which provides for an appeal to the superior court in accordance with the provisions governing judicial review of administrative decisions, *see* A.R.S. §§ 12-901 to -914), the superior court’s jurisdiction with regard to the ALJ’s order is limited to providing judicial review in its appellate capacity. But § 32-2199.02(B) expressly allows for both judicial review *and* enforcement: “The order issued by the administrative law judge is enforceable through contempt of court proceedings *and* is subject to judicial review as prescribed by § 41-1092.08.” (Emphasis added.) And, with regard to enforcement, § 32-2199.02(B) contemplates enforcing the ALJ’s order through contempt of court proceedings; the statute does not reference contempt of “the office” or “the department.” *Compare* A.R.S. § 40-424(A) (describing penalties for “contempt of commission” based on failure to comply with Arizona Corporation Commission orders, rules, or requirements).

¶11 Unlike the courts, which have inherent contempt power, *see Owen v. City Court*, 123 Ariz. 267, 268 (1979), an agency only has the powers delegated to it by the Legislature. *Facilitec, Inc. v. Hibbs*, 206 Ariz. 486, 488, ¶ 10 (2003). OAH’s statutory authority extends to adjudicating “contested cases” (proceedings in which a party’s legal rights or duties are determined by an agency after an administrative hearing, *see* A.R.S. § 41-1001(5)) and “appealable agency actions” (actions other than contested cases in which an agency determines a party’s legal rights or duties, *see* A.R.S. § 41-1092(3)). *See* A.R.S. § 41-1092.02(A). A contempt proceeding of this nature—seeking enforcement of the parties’ legal rights or duties that were previously determined by the final decision in a prior administrative proceeding—does not fit the definition of either an appealable agency action or a contested case. *See also* A.R.S. § 32-2199.01(A) (providing for administrative dispute resolution “concerning violations of condominium documents . . .

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or violations of the statutes that regulate condominiums,” not violations of previously issued administrative orders).

¶12 And OAH’s mandate does not include enforcement authority generally, much less contempt powers. *See generally* A.R.S. §§ 41-1092 to -1092.12. For example, although OAH’s enabling statutes grant the ALJ authority to subpoena witnesses, the ALJ must apply to the superior court to enforce the subpoena – including by contempt – should the witness fail to comply. *See* A.R.S. §§ 41-1092.07(C), 12-2211; *see also* A.R.S. §§ 41-1062(A)(4), 12-2212(B) (noting that an officer presiding over a contested case may issue subpoenas and, should the witness subpoenaed fail to comply, the officer may apply to the superior court, which “shall thereupon proceed as though such failure had occurred in an action pending before it”). And although not dispositive, OAH’s position in documents provided by Whitmer to the superior court similarly reflects OAH’s understanding that it lacks statutory authorization or capacity to hold contempt proceedings.

¶13 Hilton Casitas argues that the regulations governing OAH’s prehearing and hearing procedures provide a mechanism for OAH to conduct contempt of court proceedings. The regulation on which Hilton Casitas relies, however, is a catch-all provision for *procedural* rules, not a substantive grant of authority to conduct enforcement proceedings. *See* A.A.C. R2-19-102(C) (“If a procedure is not provided by statute or these rules, an administrative law judge may issue an order using the Arizona Rules of Civil Procedure and related local rules of guidance.”); *see also generally* A.A.C. tit. 2, ch. 19, art. 1 (setting forth procedural rules for OAH proceedings). And even if that regulation purported to expand OAH’s statutory grant of authority, it cannot do so. *See Ariz. Health Care Cost Containment Sys. v. Bentley*, 187 Ariz. 229, 232 (App. 1996) (“The scope of an agency’s power is measured by statute and may not be expanded by agency fiat.”) (citation omitted).

¶14 We recognize a certain dissonance in the superior court conducting proceedings to consider a party’s refusal to follow an order issued by a separate administrative forum. But the statutory schemes governing several administrative bodies allow the superior court to act as a forum for such contempt proceedings. *See* A.R.S. §§ 41-1092.07(C), 12-2211 (allowing an OAH ALJ to subpoena witnesses and apply to the superior court to enforce the subpoena, including by contempt); A.R.S. §§ 41-1062(A)(4), 12-2212(B) (allowing an administrative officer conducting a contested case to apply to the superior court to remedy a witness’s noncompliance with a subpoena “as though such failure had occurred in an action pending before [the court]”); *see also* A.R.S. § 32-148 (authorizing an

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administrative board to certify a person who refuses to obey its subpoena "to the superior court in the county in which service was made for contempt proceedings"); A.R.S. § 23-677 (authorizing an administrative department to apply to the superior court in the case of "contumacy or refusal of a person to obey a subpoena," upon which the court "shall issue" an order to comply, and failure to so comply "may be punished by the court as a contempt thereof"); A.R.S. § 44-3134(A) (same authorization for a different commission), (B) (authorizing "the superior court in Maricopa county [to] exercise its contempt powers" on application of the commission for a person's willful noncompliance with a nondisclosure order in a subpoena).

¶15 Accordingly, the superior court erred by concluding that OAH had jurisdiction to enforce the ALJ's order by contempt, much less *exclusive* jurisdiction (assuming OAH qualifies as "another court") depriving the superior court of original jurisdiction to consider Whitmer's enforcement action. *See* Ariz. Const. art. 6, § 14(1); *see also* A.R.S. § 12-864 (describing civil contempts to include failure to obey the superior court's order as well as "all other contempts not specifically embraced within this article"). We therefore reverse the judgment of dismissal and remand for further proceedings.

**II. Attorney's Fees in Superior Court.**

¶16 Whitmer also challenges the superior court's award of attorney's fees in favor of Hilton Casitas. The basis for the award is unclear. The judgment reflects an award to Hilton Casitas as the prevailing party, but Hilton Casitas' application for fees only urged an award as a sanction under A.R.S. §§ 12-349 and -350 or under Arizona Rule of Civil Procedure 11. The superior court made no findings under § 12-350 as required to support an award under § 12-349, and the record shows no indication that Hilton Casitas complied with the procedural prerequisites for an award under Rule 11(c). Given our disposition reversing dismissal, however, we vacate the award and do not further address the issue of fees in superior court.

**III. Attorney's Fees and/or Sanctions on Appeal.**

¶17 Hilton Casitas requests an award of attorney's fees incurred on appeal, but cites only ARCAP 21 without stating a substantive basis for the award. For that reason, *see* ARCAP 21(a)(2), and given that Hilton Casitas did not prevail on appeal, we decline its request for attorney's fees.

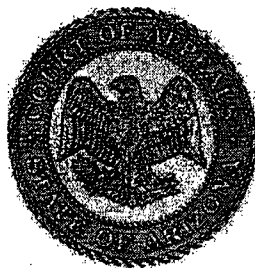
¶18 Whitmer requests that we impose sanctions on Hilton Casitas under ARCAP 25. In an exercise of our discretion, we decline to do so. As

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the prevailing party, however, Whitmer is entitled to costs on appeal upon compliance with ARCAP 21.

CONCLUSION

¶19 For the foregoing reasons, we reverse the judgment of dismissal and remand for further proceedings. In light of this disposition, we vacate the superior court's award of attorney's fees.



AMY M. WOOD • Clerk of the Court  
FILED: AA