

2019 OCT 18 PM 12:41

1 R. L. Whitmer
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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
11 Petitioner/Plaintiff.

12 **CV2016-055080**

13 v.

14 **PLAINTIFF'S RESPONSE TO**
15 **DEFENDANT'S MOTION TO STRIKE**

16 HILTON CASITAS HOMEOWNERS
17 ASSOCIATION, also known as
18 HILTON CASITAS COUNCIL OF
19 HOMEOWNERS, also known as
20 COUNCIL OF CO-OWNERS, also
21 known as HILTON CASITAS
22 COUNCIL OF CO-OWNERS;
23 Respondent/Defendant.

24 Assigned to the Honorable
25 Lisa Daniel Flores)

26 On September 6, 2019 Plaintiff filed a response to Defendant's application
27 for attorneys' fees, and separately filed an "Objection to the Defendant's form of
28 judgment and motion for an alternative form of judgment and request for
sanctions."

The Plaintiff's reply in support of his "Objection to the Defendant's form of
judgment and motion for an alternative form of judgment and request for
sanctions" deals only with the Defendant's lack of objecting to the alternative
form of judgment and the Defendant's attorneys' contorted misrepresentations
that A.R.S. § 12-341.01 somehow applies to an action seeking the enforcement
of a statute, A.R.S. § 33-1243.D.

In addition, the Defendant's September 16, 2019 reply in support of its
application for attorneys' fees Defendant acknowledged that the Plaintiff filed a
motion for an alternative form of judgment and request for sanctions:

1 “In response to the Application, Plaintiff filed separate
2 documents entitled: (1) “Plaintiff’s Objection To Defendants’
3 Application For An Award Of Attorney Fees And Costs”
4 and (2) “Plaintiff’s Objection To Defendant’s Form Of
5 Judgment And Motion For An Alternative From [sic] of
6 Judgment And Request For Sanctions” (collectively referred
7 to as “Response”). For purposes of ease, this Reply will
8 address both filings, including Plaintiff’s request for
9 sanctions.” (Defendant’s reply/response, p.1:21-26).

10 Accordingly, the Defendant clearly asked the Court to consider its reply as
11 its response to Plaintiff’s motion for an alternative form of judgment and request
12 for sanctions. Therefore, Plaintiff was entitled to file a reply in support of his
13 motion.

14 Despite its own statement, now the Defendant argues that the Plaintiff
15 was not allowed to file a reply in support of Plaintiff’s motion for an alternative
16 form of judgment and request for sanctions, while Plaintiff obviously had the
17 right under ARCP to file a reply.

18 The Defendant’s attorneys realized that they did contest or dispute any of
19 the Plaintiff’s statements and allegations regarding; a) the form of judgment; and
20 b) the motion for sanctions. Out of desperation they are improperly asking the
21 Court to strike the Plaintiff’s reply which exposed them for not disputing
22 Plaintiff’s statements and allegations.

23 The Defendant’s motion to strike is clearly frivolous and underscores the
24 Defendant’s attorneys desire to expand the proceedings in order to bootstrap
25 fees, and is another example of why they should be sanctioned. Accordingly,
26 Defendant’s motion to strike should be denied.

27 Dated this 18th day of October 2019.

28 

R. L. Whitmer

1 ORIGINAL filed this
2 18th day of October 2019,
3 with the Court;

4 and a COPY mailed this same date to:

5 Augustus Shaw
6 Shaw & Lines Law Firm
7 4523 E. Broadway Rd.
8 Phoenix, AZ 85040

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