

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2015-051911

09/14/2016

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT  
W. Tenoever  
Deputy

NORMAN ZWICKY

JON L PHELPS

v.

PREMIERE VACATION COLLECTION  
OWNERS ASSOCIATION

JOHN E DEWULF

EDWARD L BARRY

**JUDGMENT SIGNED**

The Court has reviewed and considered the plaintiff's Application for Award of Attorneys' Fees and Costs and the defendant's response.

The Court finds that this case was not an "action arising out of a contract" within the meaning of A.R.S. section 12-341.01. See Dooley v. O'Brien, 226 Ariz. 149, 244 P.3d 586 (App. 2010) (action against corporate directors and shareholders for breach of duties imposed by law does not "arise from" the contract that created the relationships). The attorneys' fees provision of Mr. Zwicky's Purchase Agreement does not apply because this was not an action to "interpret" that agreement or to "enforce" Mr. Zwicky's rights against the seller under that agreement.

IT IS THEREFORE ORDERED the plaintiff's request for an award of attorneys' fees is denied.

IT IS FURTHER ORDERED awarding the plaintiff his costs in the amount of \$349.00. The other expenses are not taxable costs under A.R.S. section 12-332.

LET THE RECORD REFLECT entry of judgment consistent with this order.