

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-019231

01/25/2007

HONORABLE BETHANY G. HICKS

CLERK OF THE COURT  
T. Melius  
Deputy

TROON NORTH ASSOCIATION

FREDERICK E DAVIDSON

v.

CRESCENT CLUB INVESTORS I LTD, et al.

BRIAN A CABIANCA

SWANSON OIL & GAS INC  
C/O THE ROEMER OIL COMPANY  
1200 17TH ST STE 2350  
DENVER CO 80202  
DISCOVER RESORTS ARIZONA L L C  
C/O DOUGLAS R VANDE KROL  
7333 E DOUBLETREE RANCH #200  
SCOTTSDALE AZ 85258  
GREGORY G MCGILL  
EDWARD J RIBADENEIRA  
MICHAEL E GERITY

MINUTE ENTRY

This matter was taken under advisement following oral argument on January 22, 2007 on the Court of Appeals Remand of May 1, 2006 to this Court for a determination on whether the Association is entitled to attorney's fees under section 7.04 of the Plaintiff's CC&R's.

The Court finds that the underlying issue of whether the Association properly commenced legal action was decided by Judge O'Melia in his June 7, 2004 Order. He held that "...the Defendants ceased the alleged illegal activities many months before the lawsuit was filed." It is clear to this Court that no "lot ...[was] is being used in a manner which violates this

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declaration” and that the Defendants were not “failing to perform any of its obligations....” (CC&R’s 7.04).

Therefore,

**IT IS ORDERED** that the Association (Plaintiff) is not entitled to attorneys’ fees.

As the Court of Appeals rejected any argument for attorneys’ fees other than any available under the Plaintiff Association’s CC & R’s, this Court will make no further order regarding attorneys’ fees and will not reexamine an award under any statutory authority. Each party is responsible for its own attorneys’ fees and costs.