

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-092725

01/13/2011

HONORABLE KAREN POTTS

CLERK OF THE COURT
M. Scott
Deputy

SUN GROVES HOMEOWNERS
ASSOCIATION, THE

JASON N MILLER

v.

PAIGE DAUSCHA, et al.

PAIGE DAUSCHA
4549 E INDIAN WELLS DR
CHANDLER AZ 85249-7072

CITY OF MESA
NO ADDRESS ON RECORD
M E R S
NO ADDRESS ON RECORD

MINUTE ENTRY

The Court has considered Plaintiff's Motion for Summary Judgment. The Court must be satisfied as to both the factual and legal basis for the relief requested in deciding a motion for summary judgment. Here, the Declaration of Covenants, Conditions and Restrictions for Sun Groves, Section 8.2, requires homeowners to pay Assessments together with interest, late fees, and "such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments." The Affidavit of Ms. Helmstadter states that the principal amount due to Plaintiff after removing legal fees and costs is \$4,833.25, however this is not supported by the Ledger attached as Exhibit C to the Statement of Facts. A calculation of only the Assessments and late charges results in an entirely different figure, many thousands of dollars less than that sought by Plaintiff. To arrive at the figure asserted by Plaintiff, one would have to include other charges, such as "CC&R violation" charges, "legal/collection" charges, "AAM Demand Fees", and/or "Attorney Fees", none of which are addressed or described in the supporting Affidavit. Because the factual support does not correspond to the requested relief or

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the supporting Affidavit, the Court cannot find in favor of Plaintiff for the amount sought.
Therefore,

IT IS ORDERED denying Plaintiff's Motion for Summary Judgment without prejudice.

/ s / HONORABLE KAREN POTTS

JUDICIAL OFFICER OF THE SUPERIOR COURT

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>