

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2019-094581

02/12/2020

HONORABLE TRACEY WESTERHAUSEN

CLERK OF THE COURT  
T. Haaser  
Deputy

CIMARRON HILLS AT MCDOWELL  
MOUNTAIN HOMEOWNERS ASSOCIATION

MARK W WALDRON

v.

SCOTT T GREENWOOD

SCOTT T GREENWOOD  
1600 SCRIPPS CENTER  
312 WALNUT STREET  
CINCINNATI OH 45202

JUDGE WESTERHAUSEN

MINUTE ENTRY

**Grant of Summary Judgment to Plaintiff Cimarron; Award of Fees and Costs to Plaintiff Cimarron; Award of Fees and Costs to Former Counter-defendant Cimarron.**

**1. Summary judgment for Cimarron.**

Plaintiff Cimarron Hills at McDowell Mountain Homeowners Association sued Defendant Scott. T. Greenwood for unpaid association fees and other damages. Defendant filed an answer and counterclaim. Docket item 8. This Court previously dismissed Greenwood's counterclaim. Item 17

Cimarron filed a motion for summary judgment on its complaint, on November 14, 2019. Item 15. Green didn't respond until January 10, 2020. He didn't argue that he didn't owe past association fees and other damages, but cited to poor notice of the damages on the part of Cimarron. Item 23. His did not present any admissible evidence to dispute the amount due for unpaid assessments. Cimarron replied. Item 24.

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The Court finds that Rule 56.e<sup>1</sup> applies, and grants summary judgment for Cimarron.

**2. Request for legal fees and costs for Plaintiff Cimarron.**

Cimarron's motion for summary judgment included a request for attorneys' fees and costs, under the contract between the parties and under A.R.S. § 12.341.01. But it was not supported by affidavit, as Rule 56.c.6 requires. If counsel submits an application for attorneys' fees and costs, the parties' opportunity to respond and reply is governed by Rule 7.1.a.3.

**3. Legal fees and costs for former Counter-defendant Cimarron.**

Counsel representing Cimarron on the counterclaim filed an application for attorneys' fees and costs, on December 31, 2019. Item 18. Greenwood didn't file any opposition.

The Court has reviewed the application, and finds that that hourly rates are reasonable and the itemization of services rendered is sufficiently detailed. Under A.R.S. § 12.341.01 and the terms of the contract between the parties, the Court awards the former counter-defendant its legal fees and costs.

**4. Proposed form of judgment.**

The Court requests that the parties await submitting any proposed form of judgment until after a ruling on Plaintiff Cimarron's application for attorneys' fees, if one is filed.

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<sup>1</sup> "When a summary judgment motion is made and supported as provided in this rule, an opposing party may not rely merely on allegations or denials of its own pleading. The opposing party must, by affidavits or as otherwise provided in this rule, set forth specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment, if appropriate, shall be entered against that party." Rule 56.e, Ariz. R. Civ. Proc.