

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-003790

04/10/2007

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
B. Navarro
Deputy

FOOTHILLS COMMUNITY ASSOCIATION,
THE

BOB J MCCULLOUGH

v.

MARTIN D LANTRY, et al.

STEWART F GROSS

MINUTE ENTRY

The Court has taken Plaintiff's Motion to Re-Urge an Award of Attorneys' Fees and Costs and Defendants' Cross-Motion for Attorneys' Fees and Costs under advisement. The Court has considered the briefing and argument made in connection with the parties varied requests for attorney's fees.

The Court finds from the evidence, that the Lantrys defended a claim without substantial justification, in violation of A.R.S. §12-349(A)(1).

The Court further finds that the Lantry's conduct defended the claim solely for purposes of harassment, in violation of A.R.S. §12-349(A)(2).

The Court further finds that the Lantry's conduct initiated, unreasonably expanded, and unreasonably delayed these proceedings, in violation of A.R.S. §12-349(A)(3).

The Court further finds that Martin D. Lantry's affidavit, regarding the holdback provisions of his escrow account for the residence in question, was filed with this Court in violation of Civil Rule 11.

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These findings are preliminary, and are made for the purposes of setting the parameters of the evidentiary hearing the Court will hear pursuant to A.R.S. §12-349(B) to determine apportionment of attorney's fees and sanctions, and also, the consideration of sanctions pursuant to Civil Rule 11. Mr. Lantry and Mr. Cheifetz are to be in attendance. Accordingly,

IT IS ORDERED setting this matter for an **Evidentiary Hearing** on **May 31, 2007 at 10:00 a.m. (time allotted: 2 hours)**, in this division.

IT IS FURTHER ORDERED that the parties shall simultaneously file briefs with the Court no later than **May 25, 2007**. Said briefs shall not exceed twenty (20) pages.

IT IS FURTHER ORDERED that any exhibits that need to be marked for identification for the hearing shall be submitted to the Clerk of this Division (602-372-3180) no later than **12:00 p.m. on May 29, 2007**. All hearing exhibits shall have been exchanged prior to that time. **No duplicate exhibits shall be presented for marking. Please DO NOT place exhibits in a notebook when submitting them to the Court.**

Please do not leave exhibits in the division's "in" box.

Each exhibit shall be stapled. If an exhibit is too large to be stapled, that exhibit shall be **securely fastened in order to prevent page separation during witness review**. (Note: **Black binder clips are NOT considered securely fastened. I suggest you use the silver two-prong fasteners**). **If either party fails to comply with the steps for marking exhibits, that party's exhibits may be precluded from being marked at the hearing.** Please call the Clerk of this Division if you have any questions or need clarification.