

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2005-016599

07/05/2006

HONORABLE ROBERT E. MILES

CLERK OF THE COURT  
K. Ballard  
Deputy

FILED: 07/07/2006

DISCOVERY AT THE ORCHARD  
HOMEOWNERS ASSOCIATION

AUGUSTUS H SHAW IV

v.

JENNIFER DELGADO, et al.

JONATHAN A DESSAULES

ARIZONA STATE DEPARTMENT OF  
REVENUE  
1600 W MONROE  
PHOENIX AZ 85007-2650  
HONEYWELL AEROSPACE FEDERAL  
CREDIT UNION  
18301 N 79TH AVE  
BUILDING A-100  
GLENDALE AZ 85308

ORDER OF THE COURT

The Court has received and considered the parties' Stipulation and Plaintiff's Application for Award of Attorneys' Fees. The application seeks \$13,900 in fees. The Complaint filed on October 26, 2005 seeks to collect a delinquency of \$1,165.59, which had been reduced to \$45.59 as of December 22, 2005.

The "China Doll Affidavit" of Plaintiff's counsel asserts that as of December 22, 2005, counsel had incurred 17.5 hours on this action, including three hours drafting a six-page Complaint that is, to a great extent, a form document, and 2.2 hours drafting two other very simple form documents consisting of an affidavit of default and a request for a default hearing. By letter dated December 22, 2005, Plaintiff's counsel, on behalf of the Plaintiff, demanded from Defendant \$4,479.09, consisting of "all assessments, legal fees and court costs" in order to resolve the matter. Unfortunately, the inability to resolve this action appears to have been driven, primarily, by the legal fees claimed by Plaintiff's counsel. However, Defendant

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contributed to the problem by vigorously litigating the matter (including filing a Counterclaim), rather than paying the arrearage and then seeking the Court's determination of a reasonable fee.

In the Court's view, the time incurred by Plaintiff's counsel through December 22, 2005 is inflated and indicates that the remainder of counsel's request may, likewise, be inflated. Accordingly, the Court concludes it cannot rely on the China Doll Affidavit to establish a reasonable fee. Therefore, taking into consideration the various factors set forth in ER. 4.2 and Schweiger v. China Doll Restaurant, 138 Ariz. 183, 187, the Court concludes that a reasonable fee for this matter is \$2,000.00.

**IT IS ORDERED** awarding Plaintiff attorneys' fees in the amount of \$2,000.00 and costs in the amount of \$683.15.