

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2008-091327

07/29/2008

THE HONORABLE LOUIS ARANETA

CLERK OF THE COURT  
M. Brady  
Deputy

PAULA J NELSON

PAULA J NELSON  
2208 W LINDNER AVE UNIT 13  
MESA AZ 85202

v.

LANDINGS HOMEOWNERS ASSOCIATION  
INC

CHANDLER W TRAVIS

MINUTE ENTRY

The Court has considered the Defendant's Application for Attorney's Fees and Costs and the Declaration in Support thereof with exhibits identifying legal services performed. The Court has also considered the Plaintiff's Response entitled Motion to Deny Request for Attorney Fees and Costs.

On May 19, 2008, after conducting an evidentiary hearing, Judge Christopher Whitten denied Plaintiff's request for injunctive relief regarding the election of directors to the Defendants' Board of Directors. Judge Whitten also allowed Plaintiff ten business days to file an amended complaint. No amended complaint was filed.

Based upon the Court's consideration of the above described documents, the Court finds that the Plaintiff and Defendant are subject to the Declaration of Covenants, Conditions and Restrictions (CC&R's) which apply to the Defendant Landings Homeowners Association, Inc. and Plaintiff as a homeowner in the Association.

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The CC&R's constitute a contract between Plaintiff and Defendant. More specifically, Article VII, Section I of the CC&R's is a contract for payment of attorney fees when, as here, the Association employs an attorney to enforce terms and conditions and prevails in the action.

The Court will consider whether the attorney fees sought are reasonable. *McDowell Mountain Ranch Association v. Simons*, 216 Ariz. 266, 165 P.3d 667 (App. 2007).

The Court has considered the time required, the issues presented to Judge Whitten, the skill needed to defend against the injunctive relief sought, the fees customarily charged in the community for legal services, the amount sought and the results obtained and the experience of the lawyer defending the Defendant.

Based on this consideration, the Court finds that the time spent of 8.7 hours and the attorney fees sought of \$1,609.50 are reasonable. Plaintiff did not meet the burden that the fees sought are clearly excessive. Therefore,

**IT IS ORDERED** granting the Application for Attorney Fees of \$1,609.50. The Court finds no just reason for delay to enter the judgment and enters judgment in favor of Defendant Landings Homeowners Association, Inc. and against Plaintiff Paula Nelson for attorney fees of \$1,609.50 together with interest thereon at the rate of 10% per annum from the date of judgment until paid in full.

Formal judgment is entered.