

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-004301

08/08/2016

HON. ROGER E. BRODMAN

CLERK OF THE COURT
M. Corriveau
Deputy

SUZANNE SALLUS

JAMES ROBERT ECKLEY

v.

SUNRISE DESERT VISTAS P O A, et al.

GUY W BLUFF

RULING ON ATTORNEYS' FEES

The Court reviewed the Motion for Attorney Fees and Costs. The Court finds that the briefing submitted on these issues is sufficient and that oral argument would not add to the Court's consideration of the issues presented. Accordingly, oral argument is waived pursuant to Ariz. R. Civ. P. Rule 7.1(c)(2) to expedite the business of this Court. The Court herein issues the following ruling.

A.R.S. §12-341.01 authorizes an award of attorneys' fees to the successful party in a contested action arising out of contract. The Court makes the following findings as to relevant factors under Associated Indemnity Corp. v. Warner, 143 Ariz. 567 (1985): 1) plaintiff's claims were not meritorious. Indeed, plaintiff's claim seems to have been an overly aggressive tactic as a subplot to contentious litigation; 2) defendants' efforts were necessary to achieve the result; 3) a fee award would not be an extreme hardship; 4) defendants prevailed with respect to all relief sought; 5) the underlying issue for appeal was a novel question, but the litigation was overkill; and 6) an award of fees would not discourage parties with tenable claims from pursuing them.

The Court does not believe this litigation was reasonable and necessary. Plaintiff was willing to spend thousands an attempt to get defendants to pay \$550. Having elected an

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aggressive litigation strategy, the Court believes plaintiff should bear the consequences of that decision. The Court has no quarrel with the fees spent by defendants in defending the claim.

On the other hand, the Court believes that \$2,137.50 for the preparation of the fee application and \$1,251.75 for the reply is excessive. The Court will award defendants \$6,685.75 for its fees in the underlying litigation, plus \$1000 for the fee application and \$500 for the reply. Thus, the total fees awarded are \$8,185.75.

THE COURT FINDS that \$8,185.75 is an award of reasonable attorneys' fees.

IT IS ORDERED that defendants are awarded \$8,185.75 in attorneys' fees.

IT IS ORDERED that defendants are awarded \$351 in costs.

IT IS ORDERED that defendants' motion to strike is denied.