

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-052668

08/16/2021

HONORABLE THEODORE CAMPAGNOLO

CLERK OF THE COURT
S. Mejia
Deputy

ROWLEY FAMILY TRUST, THE, et al.

JUSTIN R COOLEY

v.

DOVE VALLEY RANCH COMMUNITY
ASSOCIATION, et al.

B AUSTIN BAILLIO

AMANDA E NELSON
CYNTHIA M SCHWARTZ
NO ADDRESS ON RECORD
JUDGE BACHUS
JUDGE CAMPAGNOLO

MINUTE ENTRY

In reviewing the pleadings related to Defendant Baron's Application for an Award of Attorney Fees and Costs, the Court has determined that it needs additional briefing on one of the issues raised in Plaintiff's Response. In its Response, Plaintiff contended that Ms. Baron is not entitled to an award of attorney's fees under A.R.S. §12-341.01, because Ms. Baron has no obligation to pay attorney's fees to her counsel. Counsel is employed by the insurance carrier, and is apparently paid on a set salary by the carrier.

In reviewing the pleadings, neither side provided adequate support for their respective positions on this issue. In the supplemental pleadings, the parties need to provide legal authority (from Arizona or outside of Arizona) that pertain to the facts in this case: to-wit, an insurance defense attorney, who is on salary with the carrier, and has no fee agreement with either the insurer or the insured.

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If the parties are unable to find any legal authority in Arizona or in a foreign jurisdiction, then the supplemental briefs shall need to include legal authority, preferably from Arizona law or Arizona reported decisions, that provide an analogy to the facts of this case, such as in-house counsel, public entities, etc., with arguments as to why such holdings in those cases would support their respective arguments.

IT IS ORDERED that the parties shall provide simultaneous supplemental briefing as discussed above. The Court believes that simultaneous briefing is appropriate, because each side will be providing independent authorities and arguments that support their position. The Court sees no need to delay its decision by requiring responses and replies.

IT IS ORDERED that Plaintiff and Defendant Beatrice Baron shall file their individual supplemental memorandum no later than September 14, 2021. No Responses or Replies shall be allowed. The Court will take Defendant Baron's Application for an Award of Attorney Fees and Costs under advisement upon the filing of both memoranda.