

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-003790

11/09/2005

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
B. Navarro
Deputy

FILED: 11/11/2005

FOOTHILLS COMMUNITY ASSOCIATION,
THE

BOB J MCCULLOUGH

v.

MARTIN D LANTRY, et al.

STEVEN W CHEIFETZ

LAWRENCE W PHELPS

MINUTE ENTRY

4:01 p.m. This is the time set for continued oral argument on Plaintiff's Motion for Summary Judgment and Motion for Judgment on the Pleadings and a Pretrial Conference. Plaintiff is represented by counsel, Bob J. McCullough. Defendants are represented by counsel, Steven W. Chiefetz and Melanie C. McKeddie. Defendant Martin D. Lantry is present. Lawrence W. Phelps, counsel for Capital Title Agency, Inc. (not a party in this action), is present.

Court Reporter, Rochelle Dobbins, is present.

Oral argument is presented on Plaintiff's Motion for Summary Judgment.

Defendants advise the Court that they have withdrawn their Motion for Summary Judgment.

Defendants clarify the issue regarding their Motion to Release Funds.

Oral argument is presented on Plaintiff's Motion for Judgment on the Pleadings.

For the reasons set forth on the record,

IT IS ORDERED denying Plaintiff's Motion for Summary Judgment

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-003790

11/09/2005

IT IS FURTHER ORDERED denying the injunctive requests for relief of both parties as to the release of proceeds.

The Motion for Judgment on the Pleadings is treated as a Motion to Strike.

IT IS ORDERED granting the Motion to Strike.

IT IS FURTHER ORDERED allowing Defendants/Counterclaimants leave to amend their counterclaim. Said amended counterclaim shall be filed no later than **November 29, 2005**.

Although the summary judgment is denied, Plaintiff's counsel is invited to submit an application for attorneys' fees with legal analysis as to why notwithstanding the motion being moot, there is an entitlement to attorneys' fees under the Homeowners' Association under A.R.S. §12-341(a) and (c), as well as §12-349 and §12-350.

The Court makes a record regarding repair issues.

A pretrial conference is conducted.

IT IS ORDERED setting oral argument on **Plaintiff's Application for Attorneys' Fees** for **December 15, 2005 at 9:15 a.m.**

IT IS FURTHER ORDERED continuing this matter on the Inactive Calendar through **December 15, 2005**.

FILED: Affidavit of James Goers; Holdback Instructions

4:52 p.m. Matter concludes.