

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-090103

11/21/2017

HONORABLE DAVID M. TALAMANTE

CLERK OF THE COURT
M. Kay
Deputy

TAPESTRY ON CENTRAL L L C

RYAN J LORENZ

v.

TAPESTRY ON CENTRAL CONDOMINIUM
ASSOCIATION, et al.

KEVIN P NELSON

CHRISTOPHER T CURRAN
MICHAEL A WRAPP

MINUTE ENTRY

The Court has reviewed the following motions, notices and memoranda of the parties along with their attachments: 1) Plaintiff's Motion for Entry of Judgment on Jury Verdict (and form of Judgment); 2) Plaintiff's Statement of Costs (and Plaintiff's Supplemental Statement of Costs filed October 16, 2017); 3) Plaintiff's Application for Award of Attorneys' Fees; 4) Defendants and Counterclaimant's Objection to Plaintiff's Motion for Entry of Judgment on Jury Verdict; 5) Defendants and Counterclaimant's Response to Plaintiff's Application for Attorneys' Fees and Costs ; 6) Defendants and Counterclaimant's Supplemental Application for Attorneys' Fees and Costs, Declaration in Support of Attorneys' Fees and Statement of Costs; 7) Plaintiff's Response to Defendants' Application for Award of Attorneys' Fees; 8) Plaintiff's Objection to Defendants' Statement of Costs; 9) Plaintiff's Reply in Support of Motion for Entry of Judgment on Jury Verdict and Objection to Defendants' Form of Judgment; 10) Defendants and Counterclaimant's Response in Objection to Plaintiff's Supplemental Statement of Costs; 11) Defendants and Counterclaimant's Reply in Support of Their Application for Attorneys' Fees; 12) Plaintiff's Reply in Support of Plaintiff's Application for Award of Attorneys' Fees; and 13) Defendants and Counterclaimant's Reply in Support of Their Application for Costs.

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In reviewing Plaintiff's Application for Attorneys' Fees and Statement of Costs, the Court finds that a good amount of those costs and fees were expended dealing with the parties and issues dismissed before trial. This is reflected in Plaintiff's Motion for Entry of Judgment on Jury Verdict. Although the Court agrees that the Defendants cannot be accurately characterized as the successful party in the matter submitted to the jury, it is not reasonable to require that Defendants pay all costs and fees associated with the other parties and claims dismissed. This remains true even if those separate claims resulted in a ruling or settlement that the Plaintiff considers favorable.

The Court also finds that there was an unnecessary amount of discovery litigation, most of it prompted by counsel's inability to meet and confer in a reasonable and good faith manner. To the extent that the Court believes that attorneys' fees were justified for these discovery disputes, orders/judgments have already been entered.

A review of the docket indicates that putting aside the unfortunate and unnecessary discovery litigation, the case did not reasonably focus on the dispute between the trial litigants until after July 31, 2015. The Court finds that it is appropriate to award Plaintiff its reasonable attorneys' fees against Defendants for work performed after this date and in anticipation of trial and for all trial work.

For reasons expressed on the record (days 4-6 of trial), the Court finds that payment of the interpreter costs claimed by Plaintiff is not taxable to the Defendants. Further, for reasons expressed by the Court, it is not appropriate for Defendants to pay the costs associated with the deposition of Cynthia Futter.

On the issue of damages, the amounts provided by the jury on the verdict forms were based on the closing arguments of counsel. The damages awarded are consistent with the summaries provided by counsel and are supported by the evidence submitted during trial. Additionally, the award in favor of Defendants on unpaid assessments is substantially similar to the amounts requested by Defendants in at least one of their prior Motions for Summary Judgment. The verdict forms and the awards of the jury are supported by the evidence. Anyone's disagreement with that verdict is not a basis for overturning the jury verdict as argued by Defendants.

IT IS ORDERED awarding judgment in the form provided by the Plaintiff, signed by the Court on November 22, 2017, and awarding Plaintiff attorneys' fees in the amount of \$581,420.00 plus costs in the amount of \$15,874.54.

There being no further matters pending before the Court, judgment is entered pursuant to Rule 54(c) ARCP.