

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2014-000514-001 DT

03/19/2015

COMMISSIONER MYRA HARRIS

CLERK OF THE COURT

J. Eaton

Deputy

NORTH CANYON PARCEL 3 A
HOMEOWNERS ASSOCIATION

CHAD M GALLACHER

v.

IDA TERZICH (001)
STEVE TERZICH (001)

IDA TERZICH
24491 LOS SERRANOS DRIVE
LAGUNA NIGUEL CA 92677
STEVE TERZICH
24491 LOS SERRANOS DRIVE
LAGUNA NIGUEL CA 92677

NORTH VALLEY JUSTICE COURT
REMAND DESK-LCA-CCC

MINUTE ENTRY

Lower Court Case No. CC2012-012200.

On February 19, 2015, counsel for Plaintiff North Canyon Parcel 3A, Homeowners Association filed a Motion for Rehearing and requested that this Court revisit its determination about the proper amount of attorneys' fees to have been awarded in the justice court action. The substance of this request is Plaintiff's contention that through no fault of its own, this Court failed to receive the entire China Doll affidavit that had earlier been submitted to the trial court. Plaintiff contended it was apparent that this Court had not received the two pages of its prior China Doll affidavit that detailed the work performed by the Waldron Law Group and this Court's ruling was based on incomplete information. Counsel for Plaintiff attached the missing documentation. In addition, Plaintiff's counsel acknowledged the time for requesting rehearing had passed pursuant to Rule 14(a) SCRAP—Civ. but alleged counsel had good cause for the late filing because it addressed its request at a subsequent hearing at the trial court after the matter had been remanded to the trial court. Counsel maintained the trial court was constrained to alter this Court's ruling and requested that this Court revisit its earlier opinion in the interest of justice and in accordance with SCRAP—Civ. Rule 2.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2014-000514-001 DT

03/19/2015

This Court has reviewed its prior minute entry—dated January 14, 2015,—as well as several of the documents created in the underlying litigation. From this Court’s prior minute entry, it appears as if this Court lacked two pages of the China Doll affidavit detailing work performed in connection with this litigation. The first page indicated 0.3 hours or \$67.50 to receive and input file information from Red Rock Financial Services for review and evaluation on November 20, 2013. This work was performed by ONTR. The second entry on that page indicates a charge of 0.4 hours or \$50.00 for LMH to review and evaluate the file from the prior law firm in order to verify the information. This work was performed on January 30, 2014. These charges should have been included in the awarded attorneys’ fees.

Plaintiff’s counsel also submitted a second page itemizing the work done by the Waldron Law Group before current counsel assumed responsibility for the case. This page documented the source for the \$647.50 charge for which this Court found no basis at the time this Court issued its prior opinion. The work listed on this page included: (1) a \$65.00 charge for a FDCPA Notification letter on November 21, 2011; (2) a \$270.00 charge for a Justice Court Summons and Complaint on January 4, 2012; (3) a \$217.50 charge for a Rule 4.2 Affidavit of Out-of-State Service on November 6, 2012; and (4) a \$95.00 charge for an Application and Affidavit for Default on November 6, 2012. This Court has reviewed these charges and finds the charges for (1) the FDCPA letter; (2) the Summons and Complaint; and (3) the Application and Affidavit for Default to be reasonable. However, this Court finds the charge for the Affidavit of Out-of-State Service to be excessive. The Affidavit of Out-of-State Service comprised two paragraphs indicating Defendants live in California and the Summons and Complaint were delivered to a California process server. This simple document could not have taken more than a few minutes to draft and review even if this Court were to assume counsel did not have a basic document to use as a form. This Court reduces the amount of attorneys’ fees awarded for the work associated with this document to \$67.50. Accordingly, an additional \$497.50 should have been included in the awarded attorneys’ fees.

Defendants Ida and Steve Terzich have not opposed Plaintiff’s request for additional attorneys’ fees.

Plaintiff’s counsel also requested that this Court review its Order denying them attorneys’ fees on appeal. This Court denied attorneys’ fees not only because Plaintiff failed to prove its entitlement to the amount requested, but also because this Court determined Defendants should not be compelled to compensate Plaintiff for fees caused by counsel’s failure to comply with the trial court’s rules about actively prosecuting cases and Plaintiff’s subsequent need to reinstate the case. Additionally, Plaintiff did not demonstrate it was entitled to all of its requested fees. This Court affirms its prior order denying Plaintiff its attorneys’ fees on appeal.

IT IS THEREFORE ORDERED awarding attorneys’ fees of an additional \$117.50 for the work performed by Plaintiff’s counsel—or its law firm. The \$117.50 is the total amount for the work performed (1) on November 20, 2013, by ONTR in the amount of \$67.50; and (2) on January 30, 2014, by LMH in the amount of \$50.00.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2014-000514-001 DT

03/19/2015

IT IS FURTHER ORDERED awarding attorneys' fees for the work performed by the Waldron Law Group PLLC in the amount of \$497.50.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court.

/s/ Myra Harris

THE HON. MYRA HARRIS
Judicial Officer of the Superior Court

031920151602

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.