

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TJ 2010-004242

03/24/2014

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT
W. Thompson
Deputy

MARLBORO COURT HOMEOWNERS
ASSOCIATION

BETH MULCAHY

v.

COSIMO PEZZANO

MINUTE ENTRY

Having considered Plaintiff's Application for Attorney's Fees and Costs Against Garnishee and proposed form of judgment,

IT IS ORDERED granting in part and denying in part Plaintiff's Application.

IT IS FURTHER ORDERED granting Plaintiff judgment against garnishee for the full amount of the judgment against judgment debtor and attorneys fees set forth in the Application.

IT IS FURTHER ORDERED denying Plaintiff's request for an award of costs.

Plaintiff's reliance on A.R.S. § 12-341.01 and its contract with the Judgment Debtor in support of its Application is misplaced. The Court agrees that the contract with Judgment Debtors allows for the recovery of attorney's fees and costs against the Judgment Debtor. However 12-341.01 and the contract are not applicable to a request for fees against the Garnishee. Plaintiff's citation to A.R.S. § 12-1598.13(B) in its proposed form of judgment for recovery of costs and additional penalty of \$400.00 is also not applicable here.

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This Petition at issue was not filed in response to Garnishee's failure to deliver non-exempt earnings statement but to Garnishee's failure to answer the Writ of Garnishment. In fact the Petition cited to the controlling statute, A.R.S. § 12-1598.13(H). Section H does not authorize recovery of court costs or additional penalty of \$400.00.

In view of the foregoing, Plaintiff shall lodge a form of judgment that comport with this minute entry no later than **ten days of the filing date of same.**