

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TJ 2013-003854

07/26/2013

COMMISSIONER JAMES R. MORROW

CLERK OF THE COURT  
S. Stulz  
Deputy

VELDA ROSE ESTATES HOMEOWNERS  
ASSOCIATION

CHARLES E MAXWELL

v.

EDITH POGGI

EDITH POGGI  
5025 N CENTRAL AVE # 218  
PHOENIX AZ 85012

KATHY COLE  
6429 E UNIVERSITY DR, #1  
MESA AZ 85205  
JAMES HANLEY  
6429 E UNIVERSITY DR  
# 2  
MESA AZ 85205  
NONI JOHNSON  
6429 E UNIVERSITY, #3  
MESA AZ 85205  
COLETTE M THOMPSON  
6429 E UNIVERSITY DR  
#4  
MESA AZ 85205

MINUTE ENTRY

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Plaintiff filed on July 2, 2013, a Supplemental Post-Judgment Application for Amount of Attorney Fees, along with a Supplemental *China Doll* Affidavit. Plaintiff also filed a Supplemental Post-Judgment Statement of Costs and Notice of Taxation. Plaintiff mailed a copy of each of these documents to Kent S. Berk indicating that he is the attorney for Defendants. The Court has not received a response on behalf of any defendant.

The Court notes that no attorney has filed a notice of appearance on behalf of any defendant in this matter since the transcript judgment was filed with this Court. The file also reflects that the attorneys for Plaintiff have previously served defendants in this case my mailing documents to “Edith Poggi and John Doe Poggi, P.O. Box 4103, Cave Creek, Arizona 85327.” See four Applications for Order of Continuing Lien filed June 14, 2013. Plaintiff also purportedly served Defendants with an Application for Attorney Fees and a Statement of Costs filed on May 16, 2013, by mailing copies to Kent S. Berk indicating that he was the attorney for defendants in this matter. It is not clear from the Court’s file whether these documents, which resulted in an order awarding post-judgment fees and costs, were ever properly served on the defendants.<sup>1</sup>

Defendant Edith Poggi entered an appearance in this post-judgment matter on her own behalf on June 20, 2013, when she filed an Objection to Writs of Garnishment and Applications for Orders of Continuing Lien. Ms. Poggi listed her address on the objection as “Edith Poggi, 5025 N. Central Ave. #218, Phoenix, Arizona 85012-1520.” In the body of this document, Ms. Poggi stated:

Plaintiff’s attorneys know that my correct address is as listed above, yet they continue to send mail to my old address. Plaintiff’s attorney has been advised of my new address. Attached as Exhibit 1 is a letter dated April 2, 2013, that Plaintiff’s attorney set to Credit Data Southwest, which contains in the body of the letter my correct/new address. Yet, in the Writs and Applications and other paperwork, they continue to send me mail to my old address, which I do not timely receive.

In moving to strike Ms. Poggi’s objection on June 25, 2013, Plaintiff’s counsel used the “5025 N. Central Ave. #218” address to serve Ms. Poggi. Plaintiff’s counsel provided no explanation as to why—seven days later—he failed to use the “5025 N. Central Ave. #218” address to mail Defendants the July 2, 2013, Supplemental Post-Judgment Application for Amount of

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<sup>1</sup> If defendants were not properly served with the May 16, 2013, application and statement, the Court will entertain a motion from defendants to set aside the subsequent award.

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Attorney Fees, along with a Supplemental *China Doll* Affidavit, Supplemental Post-Judgment Statement of Costs and Notice of Taxation.

As Plaintiff, through its counsel, failed to serve the July 2, 2013, documents on Defendant Poggi at 5025 N. Central Ave. #218, Phoenix, Arizona 85012-1520, even after she had made a post-judgment appearance in this matter in which she noted Plaintiff's history of mailing documents to her at an incorrect address, the application for an award of fees and costs are denied without prejudice to refiling the documents and properly serving them.

IT IS ORDERED denying, without prejudice, Plaintiff's Supplemental Post-Judgment Application for Amount of Attorney Fees and Supplemental Post-Judgment Statement of Costs and Notice of Taxation filed July 2, 2013.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.