

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-000489

03/27/2012

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT
D. Harding
Deputy

ROBERT J HALT, et al.

MELANIE C MCKEDDIE

v.

SUNBURST FARMS EAST INC, et al.

STEPHANIE MONROE WILSON

ROBERT MACKENZIE
DAXTON R WATSON

DOCUMENT SIGNED

The parties advised the Court that there remains an outstanding issue on this matter regarding the formal entry of judgment in favor of the Halts concerning the 1985 judgment.¹ The sole issue that has remained open has been the amount of attorney fees awarded to the Halts. The Court previously ruled in its November 14, 2008 minute entry that the Halts were entitled to submit a fee application. The Halts submitted an initial application for fees and costs and supplemented its request by filing an amended application of fees on October 30, 2010. The Association did file an objection to the amended requested for fees.

The Court reviewed the original and amended application for attorney fees and costs submitted by the Halts, the responsive pleadings submitted by the opposition and the responding reply submitted by the Halts in this matter.

¹ The Notice of Lodging Form of Judgment was originally filed November 5, 2009. Multiple objections were raised over the course of time and the Court disposed of those objections on May 12, 2011.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-000489

03/27/2012

The Association has also submitted its own attorney fee application regarding the 2007 CC&R declaratory relief claim. The Association prevailed in that portion of these parties' litigation. However, in this Court's review of these files it seems clear that the 1985 judgment case has consumed much of these parties' legal time and attention. Further, the litigation issues raised in connection with the 1985 Judgment has been responsible for the majority of litigation. The Halts did prevail after a trial on the merits was conducted on the enforcement of the 1985 judgment. At this trial the Association's defenses were confronted.²

The litigation between these parties has been on-going since 2007. Having considered the totality of the litigation conducted by these parties, this Court does find that the Halts are the prevailing parties.³ As the prevailing parties the Halts are entitled to an award of attorney fees pursuant to A.R.S. §12-341.01 and taxable costs pursuant to A.R.S. §12-341.

Having reviewed the original and amended affidavit of fees submitted by the Halts and having applied the factors set forth in *Schweiger v. China Doll Restaurant, Inc.*, 138 Ariz. 183, 678 P.2d 927 (App. 1983) the Court finds that the fees requested of \$103,544.50 are reasonable.⁴ Further the Court finds taxable costs of \$2,330.65 have been incurred in this matter.

The original form of judgment was submitted on this matter some time ago and the parties have been previously provided an opportunity to object to the form of the judgment, without regard to the issue of attorney fees and costs. This Court has filled in the sums awarded for attorney fees and costs and has signed the original form of judgment submitted.

There has been a previous determination made by the Court that the judgment would be rendered in the Halts name and would be enforceable by the Halts, on their behalf and on the behalf of the other original successors to the 1985 Judgment and Settlement Agreement.⁵

IT IS ORDERED granting the Halts Application For Attorney Fees and Costs;

IT IS FURTHER ORDERED denying Sunburst Farms East, Inc.'s, application for attorney fees and costs and its objections to Halts' application for fees and costs.

IT IS FURTHER ORDERED granting the Halts reasonable attorney fees and costs as the prevailing parties in this matter. The Halts are awarded reasonable attorney fees of

² The Halts prevailed in establishing a right to execute on the judgment and in establishing that the judgment was not void on its face.

³ *Schwartz v. Farmers Ins. Co. of Arizona*, 166 Ariz. 33, 800 P.2d 20 [App. 1990].

⁴ The Court notes that the Halts have not requested any attorney fees for work performed on the 2007 CC&R case.

⁵ The Halts have previously admitted that Mr. Lisi is a successor in the 1985 Judgment and Settlement Agreement.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-000489

03/27/2012

\$93,908.50 against Sunburst Farms East Inc., and awarded reasonable attorney fees of \$9,636.00 against the Interveners, jointly and severally. Taxable costs are awarded against these defendants and interveners of \$2,330.65. These sums are ordered together with legal interest until paid.

The parties are placed on notice that the Court has this date signed the previously submitted Form of Judgment submitted by the Halts on November 5, 2009. The formal Order has been entered (filed) by the Clerk as of this date.

Date: March 27, 2012

/ s / HONORABLE J. RICHARD GAMA

JUDICIAL OFFICER OF THE SUPERIOR COURT

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.