

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000756

11/04/2014

HONORABLE CHRISTOPHER WHITTEN

CLERK OF THE COURT
A. Quintana
Deputy

HONEYWELL INTERNATIONAL

DAWN R GABEL

v.

MARICOPA COUNTY

STEVEN B PALMER

MINUTE ENTRY

The Court has various motions, all regarding specifics of the judgment to be entered, all of which are fully briefed, including:

- (1) Plaintiff's Motion of Lodging Form of Judgment filed September 15, 2014,
- (2) Plaintiff's Motion for Attorney's Fees of Costs, filed September 15, 2014, and
- (3) Plaintiff's Notice of Filing Statement of Taxable Costs, filed September 15, 2014.

Plaintiff is entitled to its taxable costs of \$2,634.09 pursuant to A.R.S. §12-341.

An award of attorney's fees and non-taxable costs, pursuant to A.R.S. §12-348 (B)(1), is discretionary. One factor in the exercise of this discretion is the determination of which party is the "prevailing" party. Even if a party prevails, the Court may decline to award fees and non-taxable costs, or reduce the same, if the prevailing party refused a settlement offer "at least as favorable to the prevailing party as the relief ultimately granted," A.R.S. § 12-348 (C)(3).

Defendant argues that it made such offers on December 2, 2011 and July 24, 2012. These offers of settlement were not, however, "at least as favorable" to Plaintiff as their relief obtained, for at least two reasons. First, the relief obtained was \$15, 289.00 better than the settlement offer. Second, the settlement offers were contingent upon the acceptance of many other compromises, where the relief ultimately obtained was not.

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The Defendant requested corrections and clarifications to paragraphs 1(a) through (e) in the Plaintiff's proposed form of judgment filed September 15, 2014. Plaintiff made those corrections and attached a revised form of judgment to its reply on October 8, 2014. On October 16, 2014 Defendant filed supplemental brief withdrawing its objections to paragraphs 1(a) through (e).

Finally, Defendant contends that the judgment in this case should not include interest after the date its first global settlement offer was made - December 2, 2011. For the same reasons described above, and because the Court believes that, even if the term "payable" in A.R.S §42-16214(A)(3) made an award of interest discretionary, in this case, an award of interest from the date of the taxpayer's overpayment is appropriate.

For these reasons on October 31, 2014 the Court signed the revised form of judgment offered by the Plaintiff with its October 8, 2014 reply to Defendant's objection to its form of judgment with an award of \$2,634.09 in taxable costs, an award of \$2,234.99 in non-taxable costs an award of \$30,000.000 in attorney's fees.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can be submitted electronically through the Clerk's eFiling Online website at <http://www.clerkofcourt.maricopa.gov/>

NOTE: Counsel who choose eFiling are strongly encouraged to upload and e-file all proposed orders in Word format to allow for possible modifications by the Court. Orders submitted in .pdf format cannot be easily modified and may result in a delay in ruling.