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Attorney for Plaintiff

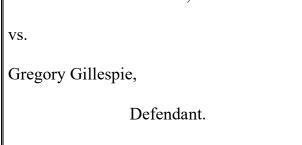
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Case No: CV2021-052893

Plaintiff,

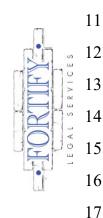
RESPONSE TO DEFENDANT'S APPLICATION FOR COSTS



Plaintiff, through undersigned counsel, hereby files this Response to Defendant's application for costs. The Court should deny the application because it should find that neither party was a successful party. Further, my client objects to any additional supplementation of the application with additional costs as being untimely.

I. ARGUMENT

The successful party to a civil suit is entitled to its costs. A.R.S. § 12-341. However, not every case has a successful party and courts have discretion to decide whether either party was a successful party. *Watson Construction Co. v. Amfac Mortgage Corp.*, 124 Ariz. 570, 585 (Ct. App. 1979) (affirming the trial court's determination that there was no successful party in a case involving multiple parties and multiple claims, even when one party obtained a monetary judgment against the other). Further, Defendant's argument that he should be considered successful because Plaintiff's "lack of



FORTIFY.

legal and factual support for her claims, which unnecessarily increased the costs" can be just as easily applied to his own claims that he entirely failed to support, or even attempt to support. Additionally, the abortion coercion claim only failed due to constitutional issues, not Plaintiff's conduct. Further, at the oral argument, Defendant's counsel argued that Defendant wants to be done with Plaintiff. A \$63.55 judgment will do nothing more than maintain a reason for these parties to have additional contact even when the award is of hardly any benefit, especially considering Defendant probably paid his attorney more to draft the request than the award is actually worth.

Further, a request for costs is due within 20 days of the date of the decision. Ariz. R. Civ. P. 54(f)(2)(A). The Court orally informed the parties during the hearing on November 9, 2023 that it was requiring the parties to file any request for costs or attorneys' fees within 20 days, which was November 29, 2023, as set out in the Court's Minute-Entry Order. The parties agreed to an extension of the date, approved by the Court, such that requests were due on December 15, 2023. Defendant filed his request and did not request an additional extension but indicated that he reserves the right to supplement his request. There is nothing in the Rules that allows such a reservation of rights. Plaintiff objects to any supplementation as being untimely.

In conclusion, the Court should determine that there was not a successful party to the case and deny Defendant's request for costs so that these parties can go their separate ways.

RESPECTFULLY SUBMITTED this 19th day of December, 2023.

FORTIFY LEGAL SERVICES

/s/ Kyle O'Dwyer Kyle O'Dwyer 3707 E Southern Avenue Mesa, AZ 85206

Attorney for Plaintiff

Filed this 19th day of December 2023 with Maricopa County Clerk of Court and served this 19th_day of December 2023 by TurboCourt on the following:

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