

IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

FAWN RIDGE MAINTENANCE ASSOCIATION, INC.,

Plaintiff,

Case No: 17-CC-30487

vs.

Division: J

JAMES P. GIEDER,

Defendant.

**PLAINTIFF'S MOTION TO DETERMINE PREVAILING PARTY AND PLAINTIFF'S
MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS**

The Plaintiff, FAWN RIDGE MAINTENANCE ASSOCIATION, INC., by and through its undersigned counsel, files this Motion to Determine Prevailing Party and its Motion for an award of Attorneys' Fees and Costs against Defendant, JAMES P. GIEDER, pursuant to Fla. R. Civ. P. 1.525, and as grounds therefor states as follows:

1. On March 29, 2022, this Court entered a Final Judgment for Plaintiff for Injunctive Relief Against Defendant.
2. In the Final Judgment, the Court "retain[ed] jurisdiction to award costs and to determine entitlement to and amount of attorney fees." Final Judgment at 17.
3. Defendant has since filed a Notice of Appeal.
4. Because this Court retained jurisdiction as to fees and costs, this Motion is being filed to preserve the Association's right to recover its attorneys' fees and costs. *See Fleming v. Blackwell-Gomez*, 290 So. 3d 961, 962 (Fla. 3d DCA 2019) ("When a court retains jurisdiction to address post-judgment matters such as authorized motions for attorney's fees and costs, without a specific finding of entitlement in the order, a party's motion for attorney's fees and costs that is filed more than thirty days after the trial court's order is entered is untimely.").

5. The Association pleaded a right to recover its attorneys' fees and costs in Paragraph 14 of the Complaint.

6. The Association has both a contractual right to recover its attorneys' fees—under Art. VIII, § 1 of the Declaration, and Article VIII, § 1 of the Statement of Commitment—and a statutory right to recover its attorneys' fees and costs under § 720.305, Fla. Stat.

7. By obtaining the injunction, the Association is the prevailing party and is entitled to recover its attorneys' fees and costs in prosecuting this action.

WHEREFORE, the Plaintiff, FAWN RIDGE MAINTENANCE ASSOCIATION, INC., respectfully requests this Honorable Court determine the Plaintiff is the prevailing party in this cause of action and to enter a final judgment awarding attorneys' fees and court costs.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by electronic mail upon any registered participant who uses the Florida Courts E-Filing Portal in conjunction with the instant cause of action in accordance with rule 2.516, Florida Rules of General Practice and Judicial Administration on this 12th day of April, 2022.

FRISCIA & ROSS, P.A.

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