

16-2-16208-31
SMJHRG
Summary Judgment Hearing
888866



**SUPERIOR COURT OF
WASHINGTON
FOR SNOHOMISH COUNTY**

FILED

2016 DEC 21 AM 11:24

SONYA KRASKI
COUNTY CLERK

SNOHOMISH CO. WASH

MT INDEX RIVERSITES COMMUNITY CLUB

(PLAINTIFF)

VS.

DEWEY MANLEY JR ET AL

(DEFENDANT)

CAUSE NO.: 16-2-16208-31
JUDGE: MICHAEL T. DOWNES
REPORTER: NOT REPORTED
CLERK: M. STEWART
DATE: 12-21-16 @ 9:30 A.M.

THIS MATTER CAME ON FOR: SUMMARY JUDGMENT

CONTINUED DATE/TIME/SESSION NAME/CONTINUANCE CODE:

HEARING DATE SET/TIME/SESSION NAME:

ACTION:

HEARING STRICKEN/CODE:

PLAINTIFF APPEARED: THROUGH COUNSEL

COUNSEL: IAN JOHNSON

DEFENDANT APPEARED: NOT PRESENT

COUNSEL: BRIAN DALE

OTHER PARTIES PRESENT: NOT PRESENT

DOCUMENTS FILED:

ORDERS ENTERED: TO ENTER

PROCEEDINGS/COURT'S FINDINGS:

DEFENDANT'S MOTION TO STRIKE THE PLAINTIFF'S MOTION FOR ATTORNEY'S FEES: DENIED TO THE EXTENT THAT THE COURT WILL NOT STRIKE THE MOTION FROM THE RECORD BUT SHOULD THE COURT CONSIDER THE IMPOSITION OF ATTORNEY'S FEES, A NEW HEARING WILL BE SET TO ADDRESS THIS MOTION AND TO ALLOW THE DEFENDANT AN OPPORTUNITY TO REVIEW AND RESPOND TO PLAINTIFF'S MOTION.

DEFENDANT'S MOTION TO STRIKE THE PORTIONS OF PLAINTIFF'S REPLY THAT INTRODUCED NEW FACTUAL MATERIAL OR ASSERTIONS THAT WERE NOT ORIGINALLY PROVIDED FOR WITHIN THE PLAINTIFF'S ORIGINAL MOTION FOR SUMMARY JUDGMENT: DENIED.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT: GRANTED, AS THE COURT FINDS THAT THERE IS NO ISSUE OF MATERIAL FACT THAT THE MONEY ISN'T OWED. THE COURT ORDERS THAT THE PLAINTIFF CAN SEEK TO ENFORCE ITS EQUITABLE LIEN IN THIS MATTER BY LIEN FORECLOSURE. THE COURT FINDS THAT THE PLAINTIFF IS ENTITLED TO AN AWARD OF ATTORNEY'S FEES AND THAT THE PLAINTIFF IS SEEKING \$10,000.00 IN ATTORNEY'S FEES. THE COURT NOTES THAT THE INFORMATION REGARDING ATTORNEY'S FEES WAS SUBMITTED LATE AND WILL SET THIS ISSUE OVER FOR A NEW HEARING TO ALLOW THE DEFENDANT AN OPPORTUNITY TO RESPOND. THE COURT NOTES THAT IT IS AWARE OF CASE LAW THAT THE AMOUNT OF ATTORNEY'S FEES IS NOT LIMITED TO THE AMOUNT OF RECOVERY AND THAT IN THIS MATTER THE REQUESTED

MT INDEX RIVERSITES COMMUNITY CLUB VS. DEWEY MANLEY JR ET AL
16-2-16208-31

AMOUNT OF ATTORNEY'S FEES IS APPROXIMATELY 4 TIMES GREATER THAN THE AMOUNT OF RECOVERY. THE COURT WILL NOT PROVIDE AN EXACT LIEN AMOUNT TODAY AS THE LIEN WILL INCLUDE AN AMOUNT OF ATTORNEY'S FEES TO BE DETERMINED AT A FUTURE HEARING.