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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Alberto Flores,

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CIV-06-0679-PHX-SMM

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Plaintiff,

)

**ORDER**

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v.

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Phillip Verdugo, et al.,

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Defendants.

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Before the Court is Defendants’ Motion for Attorneys’ Fees (Dkt. 72). Defendants filed its motion after the Court granted Defendants’ motion for summary judgment and entered judgment in Defendants’ favor (Dkts. 69, 70). On September 5, 2008, Plaintiff filed a Notice of Appeal to the U.S. Court of Appeals for the Ninth Circuit (Dkt. 73). Plaintiff’s appeal is currently pending.

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Because the Court cannot resolve Defendant’s motion for attorneys fees while Plaintiff’s appeal is pending, the Court will deny the motion with leave to refile after the appeal is concluded. Accordingly,

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**IT IS HEREBY ORDERED** that Defendant’s Motion for Attorneys’ Fees (Dkt. 72) is **DENIED** with leave to renew the motion after resolution of the appeal.

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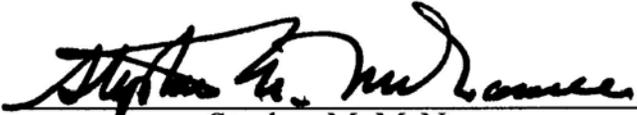
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**IT IS FURTHER ORDERED** that Defendant may reinstate its motion at the proper time by filing a Notice of Renewal of Motion for Attorneys' Fees; Defendant need not refile the motion itself.

DATED this 6<sup>th</sup> day of November, 2008.

  
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Stephen M. McNamee  
United States District Judge