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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Billy Taylor,)

No. CV-07-1984-PHX-DGC

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Plaintiff,)

ORDER

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vs.)

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Horizon Distributors, Inc.,)

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Defendant.)

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Defendant Horizon Distributors asks the Court to require that Plaintiff post a bond for costs on appeal. Dkt. #134. Plaintiff Taylor has filed no response. The Court will deny Horizon’s motion. Dkt. #134.

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Taylor filed a civil rights complaint. Dkt. #1. The Court granted his motion for leave to proceed *in forma pauperis*. Dkt. ##3, 4. The Court ultimately granted summary judgment in favor of Horizon. Dkt. #120. On August 12, 2009, Taylor filed a notice of appeal. Dkt. #127. Horizon now asks the Court to require that Taylor file a \$10,000 bond to ensure payment of Horizon’s costs on appeal, including attorneys’ fees. Horizon notes that Taylor has failed to pay the current \$7,486.30 judgment against him. Dkt. #134 at 3; *see* Fed. R. App. P. 7.

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Under Federal Rule of Appellate Procedure 7, a “district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal.” The courts are split on whether the bond may include attorneys’ fees. *See Pedraza v. United Guar. Corp.*, 313 F.3d 1323 (11th Cir. 2002)

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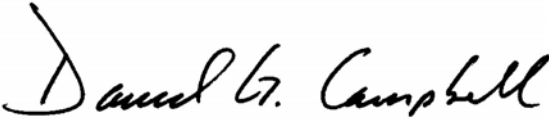
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1 (allowing attorneys' fees); *Adsani v. Miller*, 139 F.3d 67, 79 (2d Cir. 1998) (allowing
2 attorneys' fees); *Skolnick v. Harlow*, 820 F.2d 13 (1st Cir. 1987) (allowing attorneys' fees);
3 *In re Am. President Lines, Inc.*, 779 F.2d 714 (D.C. Cir. 1985) (not allowing attorneys'
4 fees); *United States v. United Funding and Investors, Inc.*, 800 F. Supp. 879 (E.D. Cal. 1992)
5 (not allowing attorneys' fees).

6 The Court concludes that it need not address this split of authority. Taylor was
7 granted *in forma pauperis* status because he demonstrated that he could not afford the modest
8 filing fee in this case. Requiring him to post a bond of \$10,000 would effectively foreclose
9 his right to appeal. The Court will not exercise its discretion to require that Taylor post a
10 bond he cannot afford.

11 **IT IS ORDERED** that Horizon's motion for bond for costs on appeal (Dkt. #134) is
12 **denied.**

13 DATED this 22nd day of January, 2010.

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David G. Campbell
United States District Judge