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

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Mattivi Brothers Leasing, Inc., a
California corporation,

No. CV-10-49-PHX-DGC

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Plaintiff,

ORDER

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vs.

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Ecopath Industries, LLC, an Arizona
limited liability company,

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Defendant.

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In August 2008, Plaintiff Mattivi Brothers Leasing, Inc. purchased an asphalt rubber blending plant from Defendant Ecopath Industries, LLC. Plaintiff claims that the plant is defective and fails to conform to representations and covenants made in the sales contract.

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Plaintiff filed a complaint seeking monetary damages and asserting claims for breach of contract, breach of express warranty, rescission, and consumer fraud. Doc. 1. In an order dated December 9, 2010, the Court entered default judgment against Defendant as a sanction for its refusal to comply with Court orders and underlying discovery obligations. Doc. 33.

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Plaintiff has filed a motion for attorneys' fees. Doc. 34. No response has been filed, and the time for filing one has passed. *See* LRCiv 54.2(b)(3).

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Plaintiff seeks a fee award against Defendant in the total amount of \$18,799.75 pursuant to A.R.S. § 12-341.01. Doc. 34. That statute provides that "[i]n any contested action arising out of a contract, express or implied, the court may award the successful party reasonable attorney fees." A.R.S. § 12-341.01(A). Given the default judgment against

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1 Defendant on the contract-based claims, Plaintiff clearly is entitled to a fee award under
2 section 12-341.01(A). Having reviewed Plaintiff's supporting memorandum (Doc. 35) and
3 counsel's declaration and statement of fees (Doc. 35-1), and having considered the record
4 as a whole and the relevant fee award factors, *see Associated Indemnity Corp. v. Warner*, 694
5 P.2d 1181, 1184 (Ariz. 1985), the Court finds the requested fee award to be reasonable and
6 appropriate. *See also* LRCiv 54.2(c)(3)(A)-(M) (listing factors bearing on the reasonableness
7 of a fee award); *Hensley v. Eckerhart*, 461 U.S. 424, 429-30 & n.3 (1983) (same). The Court
8 will grant Plaintiff's motion and award it attorneys' fees in the amount of \$18,799.75.

9 **IT IS ORDERED:**

- 10 1. Plaintiff's motion for attorneys' fees (Doc. 34) is **granted**.
11 2. Plaintiff is awarded attorneys' fees in the amount of **\$18,799.75**.

12 DATED this 28th day of January, 2011.

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17 David G. Campbell
18 United States District Judge
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