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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 AOM Group, LLC,  
10 Plaintiff,

11 vs.

12 Wells Fargo Bank N.A., et al.,  
13 Defendant.  
14

) No. CV 10-0528-PHX-MHM

) **ORDER**

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17 Currently pending before the Court is Defendant Wells Fargo Bank, N.A.'s Motion  
18 for Sanctions and Award of Attorneys' Fees against Plaintiff AOM Group, LLC ("AOM  
19 Group"). (Doc. 42). The motion for attorneys' fees was filed on October 25, 2010 and as of  
20 this date, Plaintiff has not filed a responsive memorandum. After reviewing the motion, the  
21 memorandum in support of the motion (doc. 42) and the pertinent case law, the Court enters  
22 the following order.

23 On March 11, 2010, Plaintiff filed an Amended Complaint against Defendant. AOM  
24 Group purports to be the trustee of a trust for homeowners in foreclosure. Plaintiff's  
25 complaint asserted (1) wrongful foreclosure; (2) quiet title; (3) fraudulent misrepresentation;  
26 (4) breach of fiduciary duty; (5) unjust enrichment; (6) civil conspiracy to commit fraud;  
27 (7) fraud; (8) breach of contract; (9) violation of the Arizona Consumer Fraud Act; (10)  
28 violation of Arizona Assignment and Satisfaction of Mortgage Law and invalid deed of trust;

1 and (11) violation of the Uniform Commercial Code, ARS 47-3100 Et. Seq., and Arizona's  
2 Recording Statute. Plaintiffs also sought a Declaratory Judgment declaring the Arizona Deed  
3 of Trust Statute to be unconstitutional. (Doc. 12). On August 25, 2010 the Court granted  
4 Defendant Wells Fargo Bank, N.A.'s Motion to Dismiss (Doc. 22) and Defendant Michael  
5 A. Bosco Jr.'s Motion to Dismiss (Doc. 17) based on Plaintiff's lack of standing. (Doc. 36).  
6 Judgment against the Plaintiff was ordered that same day. (Doc. 37).

7 Defendant Wells Fargo Bank, N.A. filed a Motion for Sanctions and Award of  
8 Attorneys' Fees on September 8, 2010 and memorandum in support of the Motion on  
9 October 25, 2010. (Docs. 38, 42). The motion argues that attorneys' fees should be granted  
10 because Plaintiff's claims arose out of contract (*See* Pls. First Amended Compl. (Doc. 12))  
11 and Wells Fargo Bank, N.A. is therefore eligible for an award reimbursing its attorneys' fees  
12 pursuant to A.R.S. § 341.01(A) ("In any contested action arising out of contract, express or  
13 implied, the court may award the successful party reasonable attorneys fees."). Wells Fargo  
14 Bank, N.A. is also seeking reimbursement of its attorneys' fees as a sanction against Plaintiff  
15 pursuant to Fed.R.Civ.P. 11. Plaintiff says sanction is justified by the bad-faith prosecution  
16 of this lawsuit. Plaintiff has filed a number of similar claims, most of which were dismissed  
17 based on lack of standing, and in some of which attorneys' fees and/or sanctions were  
18 awarded.<sup>1</sup> Defendant also explains why it is entitled to fees pursuant to the factors

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20 <sup>1</sup> This Court notes that this case is but one in a series of lawsuits filed by the AOM  
21 Group, who purport to act as trustee for a series of trusts formed by individuals who have  
22 defaulted on home loans secured by Promissory Note and Deed of Trust. See AOM Group,  
23 LLC v. Mortgagit, Inc., 2:09-cv-02639-SRB; AOM Group, LLC, v. Loanacity, 2:10-cv-  
24 00088-GMS; AOM Group, LLC. v. Coastal Capital Corp., 2:10-cv-00094-SRB; AOM  
25 Group, LLC v. DHI Mortgage Company, Ltd., 2:10-cv-00208-GMS; AOM Group, LLC v.  
26 Countrywide Home Loans, Inc., 2:10-cv-00514-GMS; AOM Group, LLC, v. Irwin Mortgage  
27 Corp., 2:10-cv-00605-MHM; AOM Group, LLC v. Downey Savings and Loan Association,  
28 F.A., 2:10-cv-00830-MHM; AOM Group, LLC v. Fidelity Mortgage Financial, 2:10-cv-  
00972-DGC; AOM Group, LLC v. DHI Mortgage Company, Ltd., 2:10-cv-01043-JAT.  
Most of the AOM Group's cases were filed between the months of January and March 2010,  
and seven out of the nine lawsuits assigned to other Judges in this District have been  
dismissed. In AOM Group, LLC v. Mortgagit, Inc., 2:09-cv-02639-SRB attorneys' fees and  
sanctions were awarded. In AOM Group, LLC v. DHI Mortgage Company, Ltd., 2:10-cv-

1 enumerated in LRCiv.P. 54.2. Since Defendant's Motion for Attorneys' Fees was filed,  
2 Plaintiff has not filed a response.

3 Defendant Wells Fargo Bank, N.A. seeks an award of attorneys' fees in the amount  
4 of \$27,916.50. The amount represents attorney and paralegal time, and is supported by an  
5 affidavit and billing statements specifying hours worked, tasks performed and rates charged  
6 as required pursuant to Fed.R.Civ.P. 54(d)(2) and LRCiv.P. 54.2. (doc. 42, Ex. C) The  
7 Court finds these fees reasonable.

8 Under LRCiv P. 7.2(I), however, "if the opposing party does not serve and file the  
9 required answering memorandum, . . . such noncompliance may be deemed a consent to the  
10 denial or granting of the motion and the Court may dispose of the motion summarily."  
11 Pursuant to this rule, the Court deems Plaintiff's failure to serve and file the required  
12 answering memorandum a consent to the granting of the Defendant's Motion for Sanctions  
13 and Award of Attorneys' Fees.

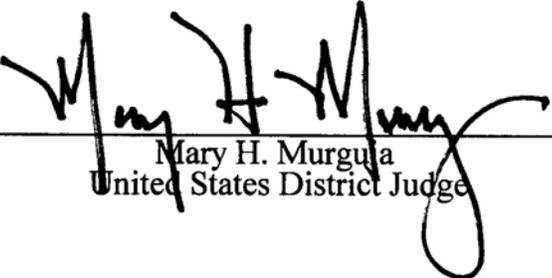
14 Accordingly,

15 **IT IS HEREBY ORDERED** granting Defendant's Motion for Sanctions and Award  
16 of Attorneys' Fees. (Docs. 38, 44)

17 **IT IS FURTHER ORDERED** awarding Wells Fargo, N.A. \$27,916.50 in attorneys'  
18 fees and related non-taxable expenses.

19 **IT IS FURTHER ORDERED** directing the Clerk to enter judgment accordingly.

20 DATED this 31<sup>st</sup> day of March, 2011.

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Mary H. Murgula  
United States District Judge

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28 00208-GMS, the Motion for Sanctions was denied, but Judge Snow expressly stated that the  
Defendant would be able to seek attorneys' fees.