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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Realty Executives International Services
10 LLC,

11 Plaintiff/Counterdefendant,

12 v.

13 Devonshire Western Canada Limited, et al.,

14 Defendants/Counterclaimants.
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No. CV-17-02671-PHX-DGC

ORDER

16 Plaintiff Realty Executives International Services LLC (“REI”) sued Defendants
17 Devonshire Western Canada Limited (“Devonshire”), Bill Tarrabain, Philippe Roy, Rick
18 Rowswell, and Gary Kirkham for various breach of contract and tort law claims in Arizona
19 state court in June 2017. *See* Doc. 1. After removing to this Court, Defendants asserted
20 counterclaims. Docs. 1, 35. The parties cross-moved for summary judgment. Docs. 109,
21 114. In August 2020, the Court granted summary judgment for Defendants on all of
22 Plaintiff’s claims, denied Plaintiff’s cross-motion on its claims, and granted in part
23 Plaintiff’s motion on Defendants’ counterclaims. Doc. 130.

24 Defendants have now filed a motion for attorney’s fees, which Plaintiff moves to
25 strike. Docs. 134, 143. Plaintiff states that it intends to appeal the Court’s summary
26 judgment order and requests that the Court deny Defendants’ attorney’s fees motion
27 without prejudice to be renewed following disposition of the matter on appeal. Doc. 144
28 at 3. Defendants express skepticism about whether Plaintiff will actually appeal, and argue

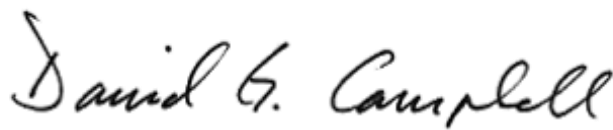
1 that the prevailing party need not wait until after resolution of an appeal to apply for fees.
2 Doc. 147 at 7.

3 The result of the appeal could affect the Court's consideration of the motion for
4 attorneys' fees. *Madrid v. Concho Elementary Sch. Dist. No. 6 of Apache Cty.*, No. CV-
5 07-8103-PCT-DGC, 2010 WL 2991562, at *1 (D. Ariz. July 26, 2010) (quoting *In re*
6 *Farmers Ins. Exch.*, No. 33-1439(A), 2009 WL 3834034, at *3 (D. Or. Nov.13, 2009)). In
7 the interest of judicial economy, the Court will not rule on Defendants' motion for fees
8 until after the appeal. The Court will deny the motion without prejudice, and deny
9 Plaintiff's motion to strike as moot.

10 **IT IS ORDERED:**

- 11 1. Defendants' motion for attorney's fees (Doc. 134) is **denied without**
12 **prejudice.**
- 13 2. Defendants may refile their motion and supporting documents (Docs. 134-
14 35) within **30 days after the appeal is final or, if no appeal is filed, within**
15 **30 days after the time for appeal has expired.** Plaintiff shall have **14 days**
16 to file a response, and Defendants shall have **7 days** to file a reply.
- 17 3. Plaintiff's motion to strike (Doc. 143) is **denied** as moot.

18 Dated this 2nd day of December, 2020.

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David G. Campbell
23 Senior United States District Judge
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