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

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Manuel Madrid,

No. CV-07-8103-PCT-DGC

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Plaintiff,

ORDER

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vs.

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Concho Elementary School District
No. 6 of Apache County, an Arizona
political subdivision; and Concho
Elementary School District No. 6 of
Apache County Governing Board
Members Carl Dye, Cecilia Roberts,
Tracy Candelaria, Angela Murphy, and
John Rebello,

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Defendants.

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Manuel Madrid worked as the superintendent for Concho Elementary School District No. 6 beginning in July 2005. His contract with the District provided for employment through June 30, 2008. The District's Governing Board terminated his employment on September 18, 2007.

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Madrid filed a complaint against the District and individual Board members on October 3, 2007. The complaint asserts claims for injunctive and declaratory relief, breach of contract, violation of Arizona's open meeting law, violation of 42 U.S.C. § 1981, discrimination in violation of Title VII, and due process violations under 42 U.S.C. § 1983.
Doc. 1.

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On May 17, 2010, the Court granted summary judgment on all claims in favor of Defendants (Doc. 75), and the Clerk entered judgment accordingly (Doc. 76). Defendants

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1 filed a motion for attorneys' fees the next day. Doc. 77. Before briefing was complete,
2 Plaintiff appealed to the Ninth Circuit. Doc. 81; *see* No. 10-16343 (9th Cir. June 16, 2010).

3 The issues on appeal "carry a significant potential that the Ninth Circuit's disposition
4 may greatly affect [the Court's] consideration" of Defendants' motion for attorneys' fees.
5 *In re Farmers Ins. Exch.*, No. 33-1439(A), 2009 WL 3834034, at *3 (D. Or. Nov. 13, 2009).
6 In the interest of judicial economy, the Court will not rule on Defendants' motion for fees
7 until after the Ninth Circuit has ruled. The Court will deny the motion without prejudice.
8 Defendants may refile their motion and supporting documents (Doc. 80) within 30 days after
9 the appeal is final. *See* Fed. R. Civ. P. 54(d), Advisory Comm. Note (1993 amendments)
10 ("If an appeal on the merits of the case is taken, the [district] court may rule on the claim for
11 fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing
12 under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved."); *see*
13 *also Sovereign Gen. Ins. Servs., Inc. v. Scottsdale Ins. Co.*, No. 2:05-cv-00312App. Div.,
14 2008 WL 5381813, at *1 (E.D. Cal. Dec. 23, 2008) (denying motion for fees without
15 prejudice to be renewed following disposition of the matter on appeal).

16 **IT IS ORDERED:**

- 17 1. Defendants' motion for attorneys' fees (Doc. 77) is **denied** without prejudice.
- 18 2. Defendants may refile their motion and supporting documents (Doc. 80) within
19 **30 days after the appeal is final**. Plaintiff shall have **15 days** to file a
20 response, and Defendants shall have **14 days** to file a reply. *See* LRCiv
21 54.2(b)(3).

22 DATED this 26th day of July, 2010.

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David G. Campbell
United States District Judge