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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 William R Donges, et al.,

10 Plaintiffs,

11 v.

12 USAA Federal Savings Bank,

13 Defendant.
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No. CV-18-00093-TUC-RM

ORDER

15 On April 30, 2019, this Court granted summary judgment to Defendant USAA
16 Federal Savings Bank in the above-entitled action. (Doc. 83.) The Clerk entered
17 judgment in favor of Defendant on May 9, 2019. (Doc. 85.) This Court later awarded
18 Defendant \$112,256.50 in attorneys' fees. (Doc. 109.)

19 The Ninth Circuit Court of Appeals affirmed this Court's grant of summary
20 judgment to Defendant and issued a formal mandate pursuant to Rule 41 of the Federal
21 Rules of Appellate Procedure. (Doc. 113.) The Ninth Circuit's mandate taxes costs
22 against Plaintiff/Appellant in the amount of \$480.30. (*Id.*) The Ninth Circuit later
23 awarded Defendant/Appellee \$27,059.00 in attorneys' fees, specifying that its attorneys'
24 fees order amends its mandate. (Doc. 114.)

25 Currently pending before this Court are Defendant's Motion for Entry of
26 Judgment (Doc. 115) and Plaintiffs' Motion to Compel USAA to Produce Payoff
27 Demand (Doc. 116). Defendant responded in opposition to the Motion to Compel (Doc.
28 117), but Plaintiffs did not respond to the Motion for Entry of Judgment.

1 **I. Motion for Entry of Judgment**

2 Defendant asks this Court to enter judgment in its favor and against Plaintiffs in
3 the amount of \$139,795.80, reflecting the \$112,256.50 in attorneys' fees awarded by this
4 Court, the \$27,059.00 in attorneys' fees awarded by the Ninth Circuit, and the \$480.30 in
5 costs taxed by the Ninth Circuit.

6 "A party may request that judgment be set out in a separate document as required
7 by Rule 58(a) [of the Federal Rules of Civil Procedure.]" Fed. R. Civ. P. 58(d). Rule
8 58(a)(3) states that "[e]very judgment and amended judgment must be set out in a
9 separate document," but that "a separate document is not required for an order disposing
10 of a motion . . . for attorney's fees under Rule 54 [of the Federal Rules of Civil
11 Procedure.]"

12 Defendant has not cited any authority indicating it is proper for this Court to
13 include the Ninth Circuit's awards of fees and costs in a judgment issued by this Court.¹
14 Furthermore, Defendant's Motion for Attorneys' Fees was filed pursuant to Rule 54 (*see*
15 Doc. 86), and thus Rule 58(a)(3) does not require a separate judgment for this Court's
16 order disposing of the Motion for Attorneys' Fees. Plaintiffs are obligated to pay
17 attorneys' fees and costs in the amounts awarded by this Court and the Ninth Circuit;
18 Defendant does not need a separate judgment from this Court to collect on its costs and
19 fee awards.

20 The Court does not need to enter a separate judgment on its attorneys' fees order,
21 and it declines to do so. *See United States v. Business Recovery Servs., LLC*, No. CV
22 11-0390-PHX-JAT, 2012 WL 3064253, at *2 (D. Ariz. July 26, 2012) (declining to
23 enter a separate judgment on attorneys' fees order).

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26 ¹ Certain costs on appeal are taxable in the district court rather than the circuit court, *see*
27 Fed. R. App. P. 39(e), and a party may move to transfer consideration of attorneys' fees
28 on appeal to the district court, *see* 9th Cir. R. 39-1.8. Neither Fed. R. App. P. 39(e) nor
9th Cir. R. 39-1.8 is applicable here; the circuit clerk taxed costs on appeal, and the Ninth
Circuit awarded attorneys' fees on appeal. As discussed above, the award of costs is
included in the Ninth Circuit's mandate, and the Ninth Circuit's Order awarding
attorneys' fees specifies that it amends the mandate.

