

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

)	Case No. 10-03870-SC
JOHN SHIRLEY, individually and as)	
trustee of the JOHN F. SHIRLEY)	ORDER DENYING DEFENDANT'S
and JULIE E. SHIRLEY 2003 TRUST,)	<u>MOTION FOR ATTORNEY FEES</u>
and JULIE SHIRLEY,)	
)	
Plaintiffs,)	
)	
v.)	
)	
WACHOVIA MORTGAGE FSB, WELLS)	
FARGO BANK N.A., and DOES 1-10,)	
)	
Defendants.)	
)	
<hr/>		
WACHOVIA MORTGAGE, a division of)	
WELLS FARGO BANK, N.A., formerly)	
known as WACHOVIA MORTGAGE, FSB,)	
)	
Third-Party Complainant,)	
)	
v.)	
)	
LSI TITLE COMPANY; LENDER)	
PROCESSING SERVICES, INC.;)	
FIDELITY NATIONAL INFORMATION)	
SERVICES, INC.; and ROES 1)	
through 10, inclusive,)	
)	
Third-Party Defendants.)	
)	
)	
)	
<hr/>		

1 On March 29, 2012, the Court entered Judgment in this matter
2 in favor of Defendant Wachovia Mortgage ("Wachovia") and against
3 John and Julie Shirley (the "Shirleys"). ECF No. 59 ("Judgment").
4 Having prevailed on summary judgment, Wachovia now seeks to recover
5 attorney's fees. ECF No. 63 ("Mot."). The Shirleys oppose the
6 motion for fees. ECF No. 66 ("Opp'n"). On May 1, 2012, the
7 Shirleys filed a Notice of Appeal as to the Judgment. ECF No. 71
8 ("Not. of Appeal"). The outcome of the Shirleys appeal may
9 substantially affect Wachovia's eligibility to recover attorney's
10 fees. As such, it would be premature to award Wachovia fees at
11 this time. The Court therefore DENIES Wachovia's Motion WITHOUT
12 PREJUDICE. Wachovia may renew the request for fees following the
13 appeal.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: July 2, 2012


UNITED STATES DISTRICT JUDGE