

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN RE: CINDY BREWER

CINDY BREWER,

Appellant,

v.

Case No: 2:17-cv-94-FtM-38

LAGO VILLAGGIO HOMEOWNERS
ASSOCIATION, INC,

Appellee.

OPINION AND ORDER¹

This matter comes before the Court on Appellee Lago Villaggio Homeowners Association, Inc.'s Motion for Attorney's Fees on Appeal. ([Doc. 18](#)). Appellant Cindy Brewer has not filed a response, and the time to do so has expired. This matter thus is ripe for review.

This is a pending bankruptcy appeal. Lago Villaggio moves for attorney's fees now "in an abundance of caution because none of the governing [bankruptcy] rules clearly state when appellate-fee motions should be filed." ([Doc. 18](#)). Lago Villaggio acknowledges that it is risking prematurity over untimeliness. It also generally cites the

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difference between when to file a motion for attorney's fees in federal versus state court for non-bankruptcy appeals. ([Doc. 18 at 2](#) (*comparing 11th Cir. R. 39-2(a) with Fla. R. App. P. 9.400(b)*)).

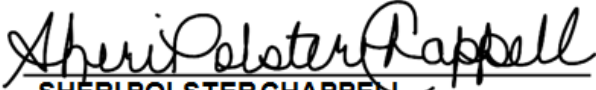
As the appeal has not yet been resolved, Lago Villaggio's motion for attorney's fees is premature. The matter of attorney's fees is best addressed after the appeal is resolved. See [F. Bankr. P. 7054](#) (referring to [Fed. R. Civ. P. 54\(d\)\(2\)](#)); see also [Fed. R. App. P. 6](#) (stating that an appeal from a final judgment in bankruptcy proceedings is taken as any other civil appeal); [11th Cir. R. 39-2](#) (stating "an application for attorney's fees must be filed with the clerk within 14 days after entry of an order disposing of a timely petition for rehearing or denying a timely petition for rehearing *en banc*, whichever is later.").

Accordingly, it is now

ORDERED:

Appellee Lago Villaggio Homeowners Association, Inc.'s Motion for Attorney's Fees on Appeal ([Doc. 18](#)) is **DENIED without prejudice**. Lago Villaggio may renew its motion if the appeal is resolved in its favor.

DONE and **ORDERED** in Fort Myers, Florida this 20th day of July 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record