

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2008-011414

01/05/2010

HON. JOHN REA

CLERK OF THE COURT  
L. Gilbert  
Deputy

FISHER FINANCIAL GROUP  
INCORPORATED

STEPHEN A U'REN

v.

LOGAN REAL ESTATE APPRAISAL SERVICE    BRADLEY R JARDINE  
L L C, et al.

MINUTE ENTRY

Both parties have submitted competing forms of Judgment and memoranda arguing several contested issues. The issues are liquidated damages, taxable costs, and attorney's fees.

The jury instructions in this case resolve the issues of liquidated damages and attorney's fees. The jury was instructed that the measure of damage was the difference between the cost of repurchasing the loan plus reasonable costs of maintaining the property after it was returned to Nationschoice, minus the value of the property at some reasonable point in time, less the reasonable costs of sale. Only the cost of repurchasing the property was stipulated. There were three other factors, all of which were highly uncertain and determined by the jury's discretion.

The Court finds that the damages in this case were not liquidated. Interest shall run from the date of the jury verdict.

The case was submitted to the jury on theories of negligent misrepresentation and misrepresentation. The measure of damage is a tort measure of damage. The appraisal contract

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between the parties merely provides the factual predicate for the plaintiff's tort legal claims and tort damages.

The Court finds that this case does not arise out of contract within the meaning of ARS 12-341.01(A).

The Court finds that Plaintiff shall be awarded costs \$7010.10.

Plaintiff may submit a form of Judgment consistent with this minute entry. The Court will sign the form of Judgment upon receipt. There is no need to lodge the form of Judgment.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>