

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-051911

05/06/2016

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
W. Tenoever
Deputy

NORMAN ZWICKY

JON L PHELPS

v.

PREMIERE VACATION COLLECTION
OWNERS ASSOCIATION

JOHN E DEWULF

EDWARD L BARRY

RULING

Courtroom 102 - NE

9:34 a.m. This is the time set for Oral Argument on Form of Order Granting Summary Judgment and Status Hearing. Plaintiff Norman Zwicky is represented by counsel, Jon L. Phelps and Edward L. Barry (who appears telephonically). Defendant Premiere Vacation Collection Owners Association is represented by counsel, John E. DeWulf.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held.

The Court proposes to enter the following order:

Of the categories that the plaintiff has asked the Court to order the defendant to produce in his proposed form of order (pages 3-7), the following items are within the scope of the Court's grant of summary judgment and the defendant therefore shall produce them: items 1, 2, 3, 4, 5, 6, 7, 15, 16, 17, 18 and 19.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-051911

05/06/2016

Those items that are not within the scope of the Court's order, and therefore are not required to be produced absent further order or agreement, are: items 8, 9, 10, 11, 12, 13, 14, 20, 21 and 22.

Given that the parties are working on the format in which information will be produced and the issues relating to burdensomeness, and since this would be an interim order as opposed to the final order proposed by the plaintiff, the Court will let the parties continue to discuss other categories of records, the form in which the records should be produced and the plaintiff's right to obtain what were described as "custom accounting summaries."

10:01 a.m. Court stands at recess.

10:12 a.m. Court reconvenes with respective parties and counsel present.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held.

IT IS ORDERED that the Court's order for Premier Vacation Collection Owners Association to produce items 15, 16 and 18 stands. The objection is overruled.

Based on the granting of the motion for summary judgment,

IT IS ORDERED that within thirty days of today's date defendant shall produce to plaintiff's counsel the items listed in the form of order lodged by the plaintiff as follows: items 1, 2, 3, 4, 5, 6, 7, 15, 16, 17, 18 and 19.

IT IS FURTHER ORDERED that all documents and records provided to the plaintiff pursuant to this order, and the information in those documents, shall be maintained in confidence by the plaintiff and not disclosed to anyone except the plaintiff, his current attorneys and any attorneys with whom they be discussing potential future representation of the plaintiff, accountants and other experts retained or potentially retained by the plaintiff's attorneys to assist them in the representation and the personnel of the firm of the attorneys' and experts' firms.

IT IS FURTHER ORDERED that any disclosure beyond that requires a further order of this Court.

IT IS FURTHER ORDERED this protective order does not apply to any documents (or information in documents) that are public record such as SEC filings, shareholder disclosures and the like.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-051911

05/06/2016

The Court is of the view that it may well be appropriate for the plaintiff to be permitted to disclose this information in other forums including other litigation, government agencies and so on but those matters are not before the Court now. There is no imperative for the Court to make that decision now. For example, there is not an issue of public safety that would require immediate disclosure. If there is some matter of public concern that the plaintiff thinks will require disclosure then they can bring that to the Court's attention and the Court will consider whether any of this information truly is entitled to confidentiality. The basis for the Court's order today is the agreement of the parties and the plaintiff's current need for the information as opposed to any finding by the Court that any of this information is in fact entitled to be treated as confidential.

IT IS ORDERED setting a Telephonic Status Conference **July 7, 2016 at 8:45 a.m.** (15 minutes allotted) in this division. Counsel for the Plaintiff is to initiate the phone conference (602) 372-0759.

10:55 a.m. Hearing concludes.

LATER:

Since no final order is being entered at this time,

IT IS ORDERED the Court will take no action on the plaintiffs' application for attorneys' fees at this time. That issue will be addressed when all other issues (including production of a list of owners) have been resolved.