

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-051911

06/19/2018

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
W. Tenoever
Deputy

NORMAN ZWICKY

JON L PHELPS

v.

PREMIERE VACATION COLLECTION
OWNERS ASSOCIATION

KATHERINE L HYDE

D&C MATERIALS-CSC
DOCKET - NE

MINUTE ENTRY

Courtroom 102 - NE

Prior to the commencement of hearing, Plaintiff's exhibits 1-9 are marked for identification.

9:05 a.m. This is the time set for Evidentiary Hearing Re: Defendant's Motion Requesting That the Court Preserve Confidential Designation and Nature of Certain Documents. Plaintiff Norman Zwicky is represented by counsel, Jon L. Phelps, Edward L. Barry, Robert M. Moore and Shannon A. Lindner. Defendant Premiere Vacation Collection Owners Association is represented by counsel, Katherine L. Hyde and Brandon Crossland.

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

IT IS ORDERED granting Baker Hostetler LLP's Application to Withdraw as Counsel of Record for Premiere Vacation Collection Owners Association all in accordance with the formal

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written Order signed by the Court on June 19, 2018 and filed (entered) by the Clerk on June 19, 2018.

Preliminary matters are discussed.

IT IS ORDERED granting the Stipulation to File under Seal Supplemental Declaration of Kathy Wheeler and Attached Exhibits electronically filed on June 15, 2018, all in accordance with the formal written Order electronically signed by the Court on June 19, 2018 and entered (filed) by the clerk on June 20, 2018.

IT IS FURTHER ORDERED granting the stipulation to file the Supplemental Declaration of Kathy Wheeler and Attached Exhibits (which are attached as Ex. 1 to Defendant's Reply in Support of its Motion Requesting that the Court Preserve Confidential Designation and Nature of Certain Documents filed June 15, 2018) under seal. Defendant Premier Vacation Collection Owners Association shall present a copy of this minute entry to the filing counter clerk at the time of filing said document.

On motion of Plaintiff,

Plaintiff's exhibits 1-9 are received in evidence.

Plaintiff's exhibit 5 is received in evidence for demonstrative purposes only.

IT IS ORDERED sealing Plaintiff's exhibit 4, not to be opened until further order of the Court.

Arguments are heard.

For purposes of this record, the Court clarifies that the documents in dispute are the documents attached to the Wheeler Supplemental Declaration, except Bates numbers PVCOA 000834 through PVCOA 000875 as to which the confidentiality designation has been withdrawn.

IT IS ORDERED denying the plaintiff's request to lift the protective order.

IT IS FURTHER ORDERED that the plaintiff may use the information covered by the protective order to formulate his proposed complaint. For example, the protective order will not prevent the plaintiff from alleging in a complaint that the management costs that the property owners were actually paying were materially greater than what was disclosed.

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IT IS FURTHER ORDERED the documents designated by PVCOA as confidential (previously defined) shall not be disclosed to any person other than plaintiff's attorneys, accountants or other consultants.

IT IS FURTHER ORDERED that the portion of the Court's previous order that gave the plaintiff and his attorneys latitude to quote the information in a complaint or other court filing in other litigation will not be reinstated. The plaintiff also may not attach the confidential documents to the complaint; and the plaintiff may not include specific figures in the complaint. The plaintiff may verbally describe the allegation based on that information.

IT IS FURTHER ORDERED that the previous order limiting the duration of this protective order also will not be reinstated. It will be up to the court in which the prospective litigation may be filed to determine the extent to which the confidentiality order shall remain in effect.

IT IS FURTHER ORDERED reinstating the portion of the order that states that this order is subject to modification by another court upon appropriate application. The plaintiff need not return to this court to seek modification of this order.

IT IS FURTHER ORDERED that plaintiff may submit a formal written order consistent with this ruling to the Court within five days after the filing of the minute entry. The defendant will have five days to object and then the Court will issue a formal order with Rule 54(c) language.

11:10 a.m. Hearing concludes.