

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-094721

01/31/2019

HONORABLE DAVID J. PALMER

CLERK OF THE COURT
I. Ostrander
Deputy

WOODMAR I V ASSOCIATION INC

CLINT G GOODMAN

v.

PAUL S RUBIN INC

JAMES A ROBLES JR.

JUDGE PALMER

UNDER ADVISEMENT RULING

The Court is in receipt of the Motion for Discovery Sanctions filed by Plaintiff Woodmar IV Association, Inc., (“Woodmar”), as well as Defendant Paul S. Rubin, Inc., d/b/a PRM Association Management’s (“PRM”) Response.

The Motion for Sanctions is related to the Motion to Compel filed by Woodmar on June 28, 2018, which was granted by this Court on September 25, 2018, after the issue was briefed by the parties.

PRM filed a Motion for Reconsideration, which was denied by this Court in an order issued on January 30, 2019, after a Response was filed and oral argument was held on January 28, 2019.

The Court previously ordered that this Motion for Sanctions would abide the Court’s ruling on the Motion for Reconsideration, which, as stated above, has been issued in Plaintiff’s favor.

In its Motion for Discovery Sanctions, Plaintiff argues that Defendant failed to respond to written discovery requests regarding interrogatories and production of documents propounded by Plaintiff relative to the issues in the case and had to be ordered by the Court to do so before they

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would respond. They also claim that Plaintiff has still refused to allow the forensic computer investigation ordered by the Court.

Due to these failures and particularly the dilatory conduct related to the computer examination, Plaintiffs ask that the Court, pursuant to Rule 37(b)(2)(A), issue an order striking Defendant's Answer and order Default Judgment against Defendant in the amount of \$244,567.00, arguing that by refusing to permit the inspection "the defendant has deprived the Association of evidence necessary to prove its case."

Alternatively, Plaintiff urges the Court to prohibit Defendants from opposing Woodmar's claims for breach of contract, negligence, conversion and breach of contract, finding damages to be \$244,567.00.

The Court has already awarded fees to the Plaintiff in conjunction with the Motion to Compel.

The relief sought by Plaintiff is clearly allowed by law. However, the Court finds those sanctions at this point to be too extreme given that the Motion for Reconsideration has been under advisement and has just been ruled on. However, the Court is ready to move past that point in the very near future and will seriously reconsider such sanctions if Defendant is found to have unreasonably delayed the disclosure of any discovery material deemed to be relevant and discoverable.

The Court does find an award of attorney's fees and costs, in addition to those previously ordered, to be appropriate in connection with this Motion for Sanctions and also for fees in connection with Plaintiff's Response to Defendant's Motion for Reconsideration. Therefore,

IT IS ORDERED Plaintiff may file with the Court an Application for Attorney's Fees and Costs relative to amounts expended pursuant to those issues.