

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011845

03/17/2017

HONORABLE KERSTIN LEMAIRE

CLERK OF THE COURT
A. Arnold
Deputy

DONA LISA JOHNSON

JAMES ROBERT ECKLEY

v.

BERNARD POTOFF, et al.

LYN ANNE BAILEY

MARIA R KUPILLAS
RICHARD V MACK
ROBERT J SPURLOCK
THOMAS A STOOPS

UNDER ADVISEMENT RULING

The Court has considered the fully briefed “Plaintiff Buyer’s Motion for Summary Judgment against Defendant Seller for Liability Purposes for Breach of Contract”. The Court has benefited from the oral arguments of counsel and has reviewed all the attachments to the pleadings. In reaching its decision, the Court also considered the legal file in this matter, and the applicable rules of court, statutes, and case law.

In deciding this motion, the Court is applying the well-established standard established by *Orme School v. Reeves*, 166 Ariz. 301 (1990). This court will grant summary judgment “if the facts produced in support of the claim or defense have so little probative value, given the quantum of the evidence required, that reasonable people could not agree with the conclusion advanced by the proponent of the claim or defense.”

As for Plaintiff’s Motion to Strike Such Defendant’s Responses regarding the non-seller defendants responding to the Plaintiff’s Motion for Summary Judgment, **IT IS ORDERED** denying the motion. Said Defendants limited their responses to the extent that they were

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mentioned as part of the motion for summary judgment and were justified in their attempts to clarify the record.

Given the volume of facts in this matter, it is simply not clear to what extent Seller knew of the defects to which she answered that there was no issue on her seller's disclosure documentation. It is more appropriate that the trier of fact determine if the Seller was aware of the deficiencies of the property and if she breached the contract by providing information that she knew to be untrue.

IT IS FURTHER ORDERED denying the "Plaintiff Buyer's Motion for Summary Judgment against Defendant Seller for Liability Purposes for Breach of Contract"