

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011845

03/27/2017

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 “Defendants Echo E. Farrell, Robert Farrell, Farrell Fine Homes, LLC and Karen Kelly’s Motion for Partial Summary Judgment – “Acting in Concert” which was also joined by the other defendants. The Court has carefully considered the Motion, the Responses and Replies, the applicable case law, statutes and rules of court. The Court also benefited from thoughtful arguments of counsel.

In deciding this motion, the Court will grant the motion for summary judgment if there is no genuine dispute as to any of the material facts that form the basis for the claim being challenged by the motion. The Court will also make every inference in favor of the party opposing the motion.

At the oral argument, Plaintiff conceded the Motion with regard to the Farrell Defendant’s only. Thus, for purposes of keeping the Court’s records in order, **IT IS ORDERED** granting the Motion for Summary Judgment regarding the Farrell Defendants only.

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With regard to the other Defendants, there are significant questions of fact as to who knew about various reports and alleged defects, what their obligations were with regard to who should disclose these items to Plaintiff and when they should have been disclosed, and what their respective motives might have been with regard to these actions or lack of action.

IT IS FURTHER ORDERED denying the Motion for Summary Judgment re: Acting in Concert regarding the remainder of the Defendants.