

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 carefully considered the “Defendants Echo E. Farrell, Robert Farrell, Farrell Fine Homes, LLC and Karen (Warren) Kelly’s Motion for Partial Summary Judgment on Punitive Damages”. 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.”

In considering the case law regarding punitive damages, the Court simply cannot find based on the evidence before it that Plaintiff has showed the heightened standard has been shown to prove by clear and convincing evidence that defendants behavior was aggravated or malicious or

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an “evil hand was guided by an evil mind.” *Rawlings v. Apodaca*, 151 Ariz. 149, 162, 726 P.2d 565, 578 (1986).

Thus, the Court will grant the Motion for Summary Judgment with this caveat. Should the evidence developed at trial indicate that Defendants did possess the requisite state of mind to sustain a jury instruction regarding punitive damages, the Court will consider given that instruction if appropriate.