

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2017-055475

06/04/2018

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT  
W. Tenoever  
Deputy

WILLIAM M BROWN

WILLIAM M BROWN  
1754 LAKEVIEW ESTATE DR  
COLDSRING TX 77331

v.

TERRAVITA COUNTRY CLUB INC, et al.

JOSHUA M BOLEN

MINUTE ENTRY

Before the Court are the parties' filings pursuant to the order entered on October 27, 2017. The Court ordered the plaintiff to file a supplement to his Application for Order to Show Cause "that specifies precisely what it is that he believes the defendants should have produced that they have not produced and as to which the failure to produce is a violation of the administrative law judge's order." The plaintiff submitted his filing, the defendant responded and the plaintiff replied. The Court has delayed addressing the matter based on the plaintiff's request that the matter be stayed through April 2, 2018.

The Court now finds that the defendant has complied with the administrative law judge's order. The documents produced on October 27, 2017, the documents previously produced at the time of the ALJ's order in July and the information forwarded through the defendant's attorney, taken together, provide a complete and coherent answer to the questions posed by the plaintiff. Even assuming for the sake of discussion that the plaintiff could prove that the defendant has not acted in good faith in the past, and that its representatives have not been credible, the plaintiff has not made a colorable showing that the defendant is likely to have additional responsive information.

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IT IS THEREFORE ORDERED dismissing the Application for an Order to Show Cause with prejudice.

Because the defendant arguably did not produce some of the responsive documents until after the plaintiff had filed suit, the Court finds that the defendant is not the prevailing party for purposes of A.R.S. sections 12-341 and 12-341.01. Even if it was, the Court in its discretion, after considering the *Associated Indemnity* factors, would not award attorneys' fees.

IT IS THEREFORE ORDERED the defendants' request for an award of attorneys' fees and costs is denied.

No further matters are pending in this case. Judgment is entered pursuant to Ariz. R. Civ. P. 54(c).

/s/ John R. Hannah

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John R. Hannah  
Judge of the Superior Court