

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

09/26/2013

HON. MARK F. ACETO

CLERK OF THE COURT
M. Scott
Deputy

MICHAEL MERLIE, et al.

STEVEN W CHEIFETZ

v.

VAL VISTA LAKES COMMUNITY
ASSOCIATION, THE, et al.

MARK K SAHL

ROBERT A FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611
LOIS M FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611

MINUTE ENTRY

Courtroom 203-SEA

11:00 a.m. This is the time set for Evidentiary Hearing regarding contempt of Court in this case. Plaintiff(s) Michael and Debra Merlie are present with counsel, Steven W. Cheifetz. Defendant(s) Val Vista Lakes Community Association are not present but are represented by counsel, Mark K. Sahl. Defendants Robert and Lois Follmer are present on their own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Prior to the commencement of the hearing, Plaintiff's Exhibits 1 and 2 and Defendant's Exhibits 3 and 4 were marked for identification.

IT IS ORDERED establishing presumptive time limits of 16 minutes per side.

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Mr. Cheifetz is heard.

Robert Follmer is sworn and testifies. The witness is re-examined and excused.

Michael Merlie is sworn and testifies. The witness is cross-examined. Exhibit 1 is offered, objected to, overruled and received in evidence. The witness is excused.

Plaintiff rests.

Lois Follmer is sworn and testifies. The witness is excused.

Defendants rest.

IT IS ORDERED that any information provided by the Defendants about their health condition during today's hearing may not be disclosed by anybody outside of the context of this case.

THE COURT FINDS that the Defendants knew of the Court's Order.

THE COURT FINDS that the Defendants had the ability to comply with the Court's Order to a greater extent than they actually complied.

THE COURT FINDS that Defendants willfully failed to comply with the Court's Order.

Under the circumstances, the Court finds both Defendants to be in contempt of the permanent injunction issued in this case.

Discussion is held.

By way of a purge,

IT IS ORDERED effective **November 8, 2013**, and continuing until Defendants bring their property into full compliance with the permanent injunction, Defendants must pay both of the following: first, \$60 per day to Plaintiffs, and second, all reasonable attorney's fees incurred by Plaintiffs on or after November 8, 2013 to the extent that the fees relate to non-compliance by Defendants with the permanent injunction.

Mr. Follmer is heard regarding their upcoming vacation plans the week of October 13,

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2013.

IT IS ORDERED setting a meeting with Court and the parties at Defendants' home on **October 7, 2013 at 10:30 a.m.**

IT IS FURTHER ORDERED that the following person(s) be present at the meeting: Plaintiff's counsel, Plaintiffs; if they wish to participate, counsel for Val Vista Lakes Community Association and Defendants.

Ms. Follmer is heard regarding a possible medical appointment conflict with October 7, 2013. The Court advises Ms. Follmer that at least one of the Defendants needs to be present.

Ms. Follmer is heard and offers Defendant's Exhibits 3 and 4 in evidence. Mr. Cheifetz is heard.

IT IS ORDERED that the objection to Exhibit 3 is sustained and Exhibit 4 is received in evidence.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

12:28 p.m. Matter concludes.

LATER:

For purposes of clarity, the Court expressly notes: in order to purge their contempt, Defendants must endeavor on an expedited basis to comply with the permanent injunction and must fully comply with that permanent injunction by no later than **November 8, 2013**.

/ s / HON. MARK F. ACETO

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JUDICIAL OFFICER OF THE SUPERIOR COURT

FILED: Exhibit Release Forms, Exhibit Worksheet