

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-002069

10/22/2004

HONORABLE JANET E. BARTON

CLERK OF THE COURT
C. Danos
Deputy

FILED: 10/28/2004

HELLER FIRST CAPITAL CORP

T MICHAEL DAGGETT

v.

SOUTHWEST HOSPITALITY GROUP L L C, et al. ALFRED W RICCIARDI

**HEARING SET
AFFIDAVIT FILING DATE SET**

8:57 a.m. This is the time set for Status Conference. Plaintiff is represented by counsel, T. Michael Daggett and Rodrick J. Coffey. Defendants are represented by counsel, Alfred W. Ricciardi.

Court reporter, Margie Riley, is present.

The motions pending before the Court are identified to be:

* Plaintiff's Motion for Clarification re: Compliance with Rule 38.1 of the Arizona Rules of Civil Procedure.

* Plaintiff's Motion for Clarification and Reconsideration.

* Defendants' Request to Reopen the Evidence Presented at the Evidentiary Hearing and to Schedule Another Hearing.

* Defendants' Request for Determination as to Fair Market Value.

Matters discussed.

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In determining plaintiff's compliance with the Court's order and producing any documents that are found, to ensure they utilized accurate methodology, plaintiff is to explain to the Court their method used to identify and locate the property files.

IT IS ORDERED as follows:

* Plaintiff's counsel are directed to submit to the Court by no later than **5:00 p.m. Wednesday, November 10, 2004**, an affidavit which reflects the hotel/motel properties in Arizona that Heller sold or bought during the relevant time period.

* If files could not be located, Plaintiff will further detail for the Court that they searched for the files but were unable to locate them using due diligence.

* Plaintiff shall identify which of the hotel/motel properties that were sold or bought, were not operating on the date of acquisition or sale.

* Plaintiff shall advise the Court whether plaintiff's counsel have produced the files on the non-operating properties.

* Plaintiff shall advise the Court of the files found and what was found in the files, e.g., an appraisal supporting the acquisition or sale price.

* Plaintiff shall identify which of the files they were able to obtain contained appraisals which were produced to defendants and on what date they were produced.

IT IS ORDERED granting Defendants' request to re-open the hearing and setting a hearing on **December 6, 2004, at 3:00 p.m. (2 hours)**.

Counsel for defendants will confirm the hearing date on his calendar upon his return to the office. If the date is not workable, counsel are to determine an alternative hearing date on a Monday at 3:00 p.m., avoiding December 13, 2004, as an available date, and advise Court staff.

9:27 a.m. Matter concludes.