

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-010513

01/31/2012

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT
R. Aguilera
Deputy

DESERT GARDEN HOLDINGS L L C

FRANK L ROSS

v.

MONEY SOURCE L L C, THE, et al.

MONEY SOURCE L L C, THE
C/O ARIZONA CORP COMMISSION
1300 W WASHINGTON ST
PHOENIX AZ 85007-2929

D JOHN DJORDJEVICH
ISSAM M HABBO
2440 W BETHANY HOME RD
PHOENIX AZ 85015

TRIAL MINUTE ENTRY
DAY 1

Courtroom-OCH 309.

Prior to commencement of trial, Plaintiff's exhibits 1 through 15 inclusive are marked for identification.

9:11 a.m. This is the time set for Trial to the Court. Plaintiff Desert Garden Holdings, LLC is represented by counsel, Frank L. Ross. Defendants Harjit Singh, who is present, and Manjit Kaur are represented by counsel, D. John Djordjevich.

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

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-010513

01/31/2012

Based on the off the record discussion between Court and counsel and pursuant to agreement of counsel,

IT IS ORDERED withdrawing Plaintiff's exhibit 1 and releasing same to counsel for Plaintiff.

ISSUED: Exhibit Release Form

Additionally, pursuant to stipulation of the parties, Plaintiff's exhibits 2 through 15 are received in evidence.

Arguments are presented regarding the scope of damages in this matter.

The Court will make no ruling on the scope of damages at this time.

Opening statement is waived by Plaintiff's counsel.

Opening statement is presented by Defendants' counsel.

Plaintiff's case:

Hamid Kazi is sworn and testifies.

Counsel for the Defendant makes a motion for directed verdict on the basis that Plaintiff has not proved any elements of punitive damages in this matter.

Oral argument on Defendant's oral motion for directed verdict is presented.

IT IS FURTHER ORDERED taking the matter regarding punitive damages under advisement.

10:25 a.m. The court stands at recess.

10:36 p.m. Court reconvenes with the parties and respective counsel present.

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

Mr. Kazi testifies further.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-010513

01/31/2012

Defendant's case:

Hargit Sing is sworn and testifies.

Closing argument is waived by Plaintiff's counsel.

Closing argument is presented by Defendants' counsel.

The punitive damages issue having been taken under advisement herein and based on the testimony and matters presented,

THE COURT FINDS there is no clear and convincing evidence to award punitive damages in this matter. Therefore,

IT IS FURTHER ORDERED denying Plaintiff's request for punitive damages on the following grounds:

1. That punitive damages are not legally available; and
2. That even if punitive damages were legally available, Plaintiff has not met its burden of proof to recover an award of punitive damages

As to the issue of actual damages, the parties do not dispute that actual damages does include the sum of \$39,167.51. Therefore,

IT IS FURTHER ORDERED awarding actual damages in favor of Plaintiff Desert Garden Holdings, LLC in the amount of \$39,167.51.

As to the remaining claims in this matter, the Court shall allow supplemental briefing with the following schedule:

- Plaintiff shall submit by **February 16, 2012**, its supplemental briefing which shall include a fee application, a statement of costs, the amount of pre-judgment interest being applied for, if any, and the legal basis for said interest, as well as addressing the legal standard as it relates to the issue of actual damages;
- Defendants shall submit its combined Response/objection(s) to Plaintiff's supplemental briefing by **March 2, 2012**;
- Plaintiff shall submit its Reply to said Response/objection(s) by **March 16, 2012**

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-010513

01/31/2012

LET THE RECORD REFLECT that should it be necessary, the Court shall set further oral argument in this matter. If further oral argument is not necessary, the Court shall rule on the remaining issues via minute entry.

IT IS FURTHER ORDERED that upon receipt of the supplemental briefing and the matter being fully briefed, this matter shall be deemed under advisement. The remaining issues regarding the amounts Plaintiff contends it is entitled to recover in this matter are:

- \$10,000.00 fee
- \$750.00 appraisal fee
- \$2,000.00 consulting agreement fee
- \$18,474.87 for a short-term extension
- \$3,741.00 ledger from accountant
- \$22,031.72 interest on the \$39,167.51 loan

11:12 a.m. Trial concludes.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.