

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-015102

12/05/2014

HON. RANDALL H. WARNER

CLERK OF THE COURT  
K. Ballard  
Deputy

FORT MCDOWELL YAVAPAI NATION, et al. LEO R BEUS

v.

STEPTOE & JOHNSON L L P, et al.

GARY L BIRNBAUM

JOHN DANIEL CAMPBELL

HEARING

**Courtroom: ECB - 512**

2:30 p.m. This is the time set for oral argument regarding the Appraiser Defendants' September 19, 2014 Motion for Sanctions. Plaintiffs Fort McDowell Yavapai Nation, Fort McDowell Enterprises, LLC, and We-Ka-Jassa Investment Fund, LLC (collectively, "Plaintiffs") are represented by Counsel L. Richard Williams and Thomas A. Gilson (appearing in place of Leo R. Beus). Defendants Lawrence E. Bloom, Larry D. Schnepf and Ringel Valuation Services, Inc. (collectively, the "Appraisal Defendants") are represented by Counsel Angela L. Potts and Josh Allen Cooner (appearing in place of John Daniel Campbell). Defendants Steptoe & Johnson, LLP, Nancy White and Ralph Guerin (collectively, the "Steptoe Defendants") are represented by Counsel Scot L. Claus (appearing in place of Gary L. Birnbaum).

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

Oral argument is presented.

**IT IS ORDERED** as follows.

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With respect to the July 10, 2007 recording, that issue is resolved. The court does not need to take any further action on that issue.

With respect to the April 16, 2007 recording, the court concludes that there is conflicting evidence on whether there ever was a tape of the April 16, 2007 meeting and whether it was destroyed. Therefore, the court will allow testimony on this issue at trial. With respect to an adverse inference instruction, the court is not deciding today whether that instruction will be given. The court will make that determination after the testimony is presented.

The court will allow a Rule 30(b)(6) deposition regarding issues pertaining to the recording of meetings and the preservation of the recordings. Counsel shall confer regarding the scheduling of the deposition.

With respect to the documents that are attached to the Response that the Reply complains of, the court is not ruling on those issues at this time. Counsel shall meet and confer in an attempt to resolve the issues. If the issues cannot be resolve, then a motion may be filed.

Based on the foregoing,

**IT IS ORDERED** granting the Motion in part and denying it in part.

**IT IS FURTHER ORDERED** denying the request for sanctions.

Counsel for the Appraiser Defendants addresses the court regarding upcoming depositions and anticipated subject areas of questioning.

Counsel for the Steptoe Defendants advises the court that an issue arose during Mr. Dvorchak's deposition; however, counsel will confer with Plaintiffs' counsel before raising the issue with the court.

3:16 p.m. Matter concludes.