

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2007-000931

01/05/2009

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT
A. Marquis
Deputy

V I P CONSTRUCTION INC

ROBERT R BERK

v.

DOUGLAS M ROTHMAN, et al.

JOHN L LOHR JR.

CHRISTOPHER D LONN

EVIDENTIARY HEARING/ORAL ARGUMENT

Courtroom 202 - OCH

2:24 p.m. This is the time set for Evidentiary Hearing/Oral Argument re: Defendants' Motion For Sanctions For Plaintiff's Failure to Disclose Sale of Home and Plaintiff's Motion to Strike Defendants' Motion For Sanctions. Plaintiff VIP Construction, Inc. dba VIP Homes is represented by counsel, Robert R. Berk. Defendants Douglas Rothman and Patti Thomas are present and represented by counsel, John L. Lohr. Victor Petersen and Evelyn Petersen, principals of VIP Construction, Inc., are also present.

A recording of this proceeding is made by CD (FTR) in lieu of a court reporter.

The Court has been presented with the Affidavit of Robert R. Berk. Both Victor Petersen and Evelyn Petersen avow they have read the Affidavit and it does, in fact, depict an accurate summary regarding the "sale" of the subject property. In light of the Petersens' avowal, defense counsel withdraws his request for an Evidentiary Hearing.

LET THE RECORD REFLECT that Plaintiffs agree to pay any fees incurred for the following:

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- Plaintiffs' second deposition, which must be completed within 30 days, unless the parties agree otherwise;
- The presence of a court reporter at said deposition;
- A copy of the transcript of said deposition; and
- Defense counsel's reasonable time in taking and preparing for said deposition.

In accordance therewith,

IT IS ORDERED that Defendants' Motion For Sanctions is granted, in part, as indicated above.

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike Defendants' Motion For Sanctions is denied.

IT IS FURTHER ORDERED that Defendants' request for additional sanctions and fees is denied, at this time.

IT IS FURTHER ORDERED that Plaintiffs make reasonable inquiries and efforts to produce a copy of the appraisal of the property in question. Said appraisal shall be provided to Defendants by **5:00 p.m. on January 20, 2009.**

IT IS FURTHER ORDERED granting defense counsel's request for an extension of time to file a substantive motion on the issue of damages; the motion shall be filed by **5:00 p.m. on March 5, 2009**, unless the parties agree otherwise. Once fully briefed, the matter will be set for hearing or the Court will resolve the Motion without oral argument.

2:35 p.m. Matter concludes.