

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-003737

07/13/2018

HONORABLE DANIEL J. KILEY

CLERK OF THE COURT
C. Mai
Deputy

TRANSPACIFIC DEVELOPMENT COMPANY, MICHAEL J PONZO
et al.

v.

LEXINGTON INSURANCE COMPANY, et al. TIMOTHY M STRONG

BRET S SHAW
DAVID WARD
10077 GRAGAN'S MILL ROAD
SUITE 540
THE WOODLANDS TX 77380
JUDGE KILEY

MATTER TAKEN UNDER ADVISEMENT

Courtroom 911 (ECB)

2:01 p.m. This is the time set for Oral Argument on the following Motions and the related filings:

- the Motion for Leave to Amend Answer filed by Defendant Lexington on March 9, 2018;
- the Joint Motion to Compel Discovery filed by the Defendants on March 22, 2018;
- the Motion for Leave to Amend Answer to Assert Defenses Barring Challenge to Appraisal Award filed by Defendant Lexington on May 15, 2018;

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- the Motion to Strike Plaintiffs' Notice of Lodging Preliminary Expert Opinion of Robert L. Wright and Affidavit of Robert L. Wright filed by Rimkus Defendants on June 29, 2018;
- the Motion to Substitute Expert Robert Wright in Place of Dilip Khatri filed by Plaintiffs on June 29, 2018;
- the Second Motion to Dismiss for Plaintiffs' Failure to Comply With A.R.S. § 12-2602(D), which was filed by Defendants Rimkus Defendants on June 13, 2018;
- the Plaintiffs' Motion to Compel Defendant Rimkus Consulting Group, Inc. to Submit to Its Deposition Pursuant to Rule 30(b)(6), ARIZ. R. CIV. P filed on June 11, 2018; and

Plaintiffs are represented by counsel, Michael Poli and Jeffrey Gregory Zane for counsel of record, Michael J. Ponzo. Defendant Lexington Insurance Company ("Defendant Lexington") is represented by counsel, Bennett Evan Cooper, Jefferson Klocke, and Timothy M. Strong. Defendants Rimkus Consulting Group Inc and Heidi M. Watton ("Rimkus Defendants") are represented by counsel, Bret S. Shaw, Thomas P. Burke, II and David Ward.

A record of the proceedings is made digitally in lieu of a court reporter.

LET THE RECORD REFLECT: the Court will not address the Motion to Substitute Expert Robert Wright in Place of Dilip Khatri filed by Plaintiffs on June 29, 2018 due to the Defendants not having sufficient time to review and respond to the Motion.

Argument is heard on the Motion for Leave to Amend Answer filed by Defendant Lexington on March 9, 2018.

Counsel for Defendant Lexington presents argument to the Court.

Counsel for Plaintiffs presents argument to the Court.

Further argument is presented.

Based upon the matters presented,

IT IS ORDERED taking Motion for Leave to Amend Answer filed by Defendant Lexington under advisement.

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Argument is heard on the Motion for Leave to Amend Answer to Assert Defenses Barring Challenge to Appraisal Award filed by the Defendant Lexington on May 15, 2018.

Counsel for Defendant Lexington presents argument to the Court.

Counsel for Plaintiffs presents argument to the Court.

Further argument is presented.

Based upon the matters presented,

IT IS FURTHER ORDERED taking the Motion for Leave to Amend Answer to Assert Defenses Barring Challenge to Appraisal Award filed by the Defendant Lexington under advisement.

Argument is presented on (1) the Second Motion to Dismiss for Plaintiffs' Failure to Comply With A.R.S. § 12-2602(D) and (2) the Motion to Strike Plaintiffs' Notice of Lodging Preliminary Expert Opinion of Robert L. Wright and Affidavit of Robert L. Wright which were both filed by Rimkus Defendants on June 13, 2018 and June 29, 2018 respectively.

Counsel for Rimkus Defendants presents argument to the Court.

Counsel for Plaintiffs presents argument to the Court.

Further argument is presented.

Based upon the matters presented,

IT IS FURTHER ORDERED taking the Second Motion to Dismiss for Plaintiffs' Failure to Comply With A.R.S. § 12-2602(D) filed by Rimkus Defendants under advisement.

IT IS FURTHER ORDERED taking the Motion to Strike Plaintiffs' Notice of Lodging Preliminary Expert Opinion of Robert L. Wright and Affidavit of Robert L. Wright under advisement.

Discussion is held regarding the Plaintiffs' Motion to Compel Defendant Rimkus Consulting Group, Inc. to Submit to Its Deposition Pursuant to Rule 30(b)(6), ARIZ. R. CIV. P filed on June 11, 2018

Counsel for Plaintiffs informs the Court that the parties have a date set to depose Defendant Rimkus Consulting Group, Inc. depending on the Court's rulings on the pending Motions.

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Discussion is held on the Joint Motion to Compel Discovery filed by the Defendants on March 22, 2018.

Argument is presented on Expedited Motion to Extend Time to Respond to Plaintiffs' Motion for Partial Summary Judgment Re: Interpretation and Application of "Like Kind and Quality" Provision in Subject Insurance Policy filed Defendant Lexington on July 2, 2018.

Counsel for Defendant Lexington presents argument to the Court.

Counsel for Plaintiffs presents argument to the Court.

Further argument is presented.

For the reasons stated on the record,

IT IS FURTHER ORDERED granting the Motion Expedited Motion to Extend Time to Respond to Plaintiffs' Motion for Partial Summary Judgment Re: Interpretation and Application of "Like Kind and Quality" Provision in Subject Insurance Policy and extending the deadline for Defendant Lexington to respond to **60 days** from the previous deadline of July 16, 2018.

Further discussion is held regarding Motion to Compel Discovery filed by Defendants.

By the agreement of the parties,

This Division will be contact with the parties to schedule Oral Argument re: Defendant's Joint Motion to Compel Discovery filed on March 22, 2018 for a later date.

4:37 p.m. Matter concludes.