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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

**SANDPIPER RESORTS
DEVELOPMENT CORPORATION,
et al.,

Plaintiffs,

vs.

GLOBAL REALTY INVESTMENTS,
LLC, *et al.*,

Defendants.**



**2:08-cv-01360 JWS
ORDER AND OPINION
[Re: Motion at Docket 201]**

I. MOTION PRESENTED

At docket 201, plaintiffs Sandpiper Resorts Development Corporation and Dourian Foster Investments, Inc. (“plaintiffs”) move to compel production of certain documents. Third-party defendant Mohr, Hackett, Pederson, Blakely & Randolph, P.C. (“Mohr Hackett”) responds at docket 231. Plaintiffs’ reply is at docket 233. Oral argument was not requested and would not assist the court.

1 **II. DISCUSSION**

2 **A. The Parties' Obligation to Confer in Good Faith**

3 Plaintiff moves to compel production of various documents from Mohr Hackett.
4 Mohr Hackett argues that the documents are privileged. Prior to being named a third-
5 party defendant, Mohr Hackett responded to a subpoena to produce documents. Mohr
6 Hackett provided approximately three thousand pages of documents and a privilege log.
7 Mohr Hackett provided a supplemental privilege log on January 10, 2012, and another
8 on April 16, 2012. Plaintiff filed the present motion on March 23, 2012.

9 Local Rule 7.2(j) provides that “[n]o discovery motion will be considered or
10 decided unless a statement of moving counsel is attached thereto certifying that after
11 personal consultation and sincere efforts to do so, counsel have been unable to
12 satisfactorily resolve the matter.”¹ Plaintiffs’ counsel attached a declaration stating that
13 he conferred with representatives of Mohr Hackett via email.² It is clear, however, from
14 the attached email exchange and representations of counsel that there was no personal
15 consultation.³

16 Federal Rule of Civil Procedure 37(a)(1) states that a “motion [to compel] must
17 include a certification that the movant has in good faith conferred *or attempted to confer*
18 with the person or party failing to make disclosure or discovery in an effort to obtain it
19 without court action.”⁴ The email exchange indicates that plaintiffs’ counsel did attempt
20 to confer with Mohr Hackett in good faith.⁵ It also appears that Mohr Hackett was
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23 ¹LRCiv 7.2(j).

24 ²Doc. 201-2 at 3.

25 ³*Id.* at 4, 10.

26 ⁴Fed. R. Civ. P. 37(a)(1)

27 ⁵Doc. 201-2 at 4–11.

