

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Sandpiper Resorts Development Corporation, <i>et al.</i>,)	2:08-cv-1360 (JWS)
)	
Plaintiffs,)	ORDER AND OPINION
)	
vs.)	(Objections to Exhibits and
)	Deposition Designations)
Global Realty Investments, LLC, <i>et al.</i>,)	
)	
Defendants.)	
_____)	

I. MATTERS ADDRESSED

Plaintiffs’ amended exhibit list is at docket 338-1. Defendants’ objections to plaintiff’s exhibits and deposition designations are at docket 341. Plaintiffs’ response in support of exhibits and deposition designations is at docket 342.

Defendants’ amended exhibit list is at docket 337-1. Plaintiffs’ objections to the exhibits are at docket 340. Defendants’ response in support of exhibits is at docket 343.

Defendants’ deposition designations are at docket 335-1. Plaintiffs’ amended objections to defendants’ deposition designations are at docket 344. Defendants’ amended response in support of deposition designations is at docket 345.

The parties have provided copies of their exhibits and relevant deposition transcripts for the court's review.

II. RULINGS ON ADMISSION OF EXHIBITS

A. Exhibits Not Subject To An Objection

All exhibits listed on the parties' exhibit lists as to which no objection was taken are **ADMITTED**.

B. Plaintiffs' Exhibits

Exhibit	Ruling
1, 3, 20, 23, and 24	Overruled.
21	Sustained.
27 and 31	Objections withdrawn.
34	Overruled.
37	Overruled.
46 and 47	Sustained.

Exhibits as to which objections have been overruled or the objections withdrawn are **ADMITTED**; those as to which objections have been sustained are **NOT ADMITTED**. Note that where a response to a hearsay objection represented that the document was not offered for its truth, if the court overruled the objection, the document is not admitted for the truth of its contents.

C. Defendants' Exhibits

Exhibit	Ruling
A and B	Sustained.

C and I	Overruled.
J	Sustained.
K	Exhibit Withdrawn.
L	Sustained (but may be used for impeachment purposes).
M thru X	Exhibits withdrawn.
Y and Z	Sustained.
AA and BB	Overruled.
CC, DD, FF, GG, HH, II, JJ, and KK	Sustained (but may be used to refresh witness recollection if necessary).
LL, MM, NN, and OO	Overruled.
PP	Exhibit withdrawn.
QQ thru VV	Overruled.
WW	Sustained.
YY and ZZ	Exhibits withdrawn.
CCC	Sustained, except as to first page identified as "Sullivan 00074," which page is admitted without objection.

All exhibits as to which objections have been overruled are **ADMITTED**, and all exhibits which have been withdrawn or as to which objections have been sustained are **NOT ADMITTED**. Note that where a response to a hearsay objection represents that the document is not offered for the truth of its contents, if the court overruled the objection, the document is not admitted for the truth of its contents. Note, too, that there were instances in which the court concluded that if a document were not offered for its

truth, it would be irrelevant or too attenuated from a non-hearsay purpose and/or too cumulative of other evidence to be admitted.

III. RULINGS ON DEPOSITION DESIGNATIONS

A. Plaintiffs' Deposition Designations

All of the objections to the various portions of Kevin Sullivan's deposition are overruled. All of the designated portions may be used at trial.

The objections to pages 25 thru 27 of Rene Esparza's deposition are sustained, and those pages may not be used at trial.

All of the objections to Gregory Ward's deposition are overruled. All of the designated portions may be used at trial.

B. Defendants' Deposition Designations

Plaintiffs' general objection ("plaintiffs' generally object") is overruled. Such a statement is insufficiently specific to be considered.

The objection to page 6 of Gregory Ward's deposition is overruled. All of the plaintiffs' suggested additions for context and completeness are accepted. Thus, all portions of the deposition designated by defendants' and the few pages whose addition is requested by plaintiffs may be used at trial.

The objections to Rene Esparza's deposition testimony are all overruled. The designated portions may be used at trial. In addition, the suggested addition of testimony from page 17 through page 18 at line 16 is accepted and shall be included.

The objections to the designations from the Kent Sullivan deposition are all overruled. Frankly, the court agrees that many of the objections as to the form of the

questions posed were technically correct in that the questions were leading questions. After reviewing the transcript, the court concludes that the objectionable questions were summarizing what the witness had earlier said or what was stated in a document, or Sullivan's response was sufficiently specific to show his answer was based on his own knowledge rather than a suggestion in the question. The court agrees with plaintiffs that the deposition designations should be expanded to include the testimony from page 15 through page 16, line 6. With that addition, all designated testimony from Sullivan's deposition may be used at trial.

With respect to Paige Dourian's deposition, the court agrees with plaintiffs that page 392 should be included. While page 259 contains no testimony, it does make clear that the deposition proceeded on a second day. Thus, with the addition of page 392, all designated portions of Paige Dourian's deposition may be used at trial.

DATED this 10th day of April 2013.

/s/ JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE