

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

SUENOS, LLC, an Illinois limited liability company,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. CV10-1034-TL
)	
)	
DIANE GOLDMAN, a New Jersey individual, et al.,)	
)	
)	
Defendants.)	

ORDER

On November 8, 2013, the court referred this matter to the Honorable Michelle H. Burns to conduct a hearing and to issue a Report and Recommendation on whether defendant Diane Goldman’s attorney, Thomas R. Nolasco, should be held in contempt for violating Judge Burns’ Settlement Conference Order. Judge Burns held the hearing on November 25, 2013, after which she entertained additional briefing. On January 9, 2014, Judge Burns issued a Report and Recommendation, recommending that Nolasco be sanctioned¹ and pay a fine of \$250.00, out of his personal funds, and that the court order the Clerk of Court to strike Exhibit B to Defendant Goldman’s Supplemental Motion for Attorney Fees. Report and Recommendation at 10 (Doc. No. 537). This matter is before the court on

¹The court concurs with Judge Burns’ finding that a sanction pursuant to Fed. R. Civ. P. 16(f) and Local Rule 83.1(f) is the appropriate remedy for Nolasco’s conduct.

Goldman's objections to the Report and Recommendation. While Goldman asserts Nolasco does not object to payment of the \$250.00 fine or to striking the exhibit, Goldman contends that, on appeal, "the recommendation prohibits Goldman's counsel from referring to the details of the settlement offers." Diane Goldman's Limited Objection to Magistrate's Report and Recommendation re: Contempt Sanctions at 2 (Doc. No. 542).

Based on its review of the Report and Recommendations and Goldman's objections, the court overrules Diane Goldman's Limited Objection to Magistrate Judge's Report and Recommendation re: Contempt Sanctions (Doc. No. 542) because the Report and Recommendation only deals with past conduct by Goldman's counsel in this court. Judge Burns' well-reasoned and thoughtful Report and Recommendation is approved and adopted in full. The court concurs with Judge Burns' analysis that failure to protect the confidentiality of settlement communications would chill the settlement process. An open and frank discussion of the strengths and weaknesses of a case is required for effective settlement negotiations. If such discussions – particularly a party's confidential settlement conference memorandum – could later be filed in a case as a public document, it would discourage the very candor necessary to the process.

The court therefore finds that Thomas Nolasco failed to comply with the Settlement Conference Order and orders that he be sanctioned by paying a fine of \$250.00, out of his own personal funds. Nolasco shall deliver a check in that

amount, payable to the United States Clerk of Court, District of Arizona, within **10 days** of the date of this order. It is further ordered that the Clerk of Court STRIKE Exhibit B to Defendant Diane Goldman's Supplemental Motion for Attorneys' Fees (Doc. No. 463-1, pp. 11-26).

It is so ordered this 5th day of February, 2014.

A handwritten signature in cursive script that reads "Tim Leonard". The signature is written in black ink and is positioned above a horizontal line.

TIM LEONARD
United States District Judge