

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

**WYNDHAM VACATION RESORTS, INC., )  
and, WYNDHAM VACATION )  
MANAGEMENT, INC., )**

**Plaintiff,**

**v.**

**THE CONSULTANT GROUP, SMOKEY )  
MOUNTAIN GETAWAYS, LLC, MOUNTAIN )  
GETAWAYS, LLC, JEFF EARLE, SUPERIOR )  
VACATIONS, INC. d/b/a SUPERIOR )  
TIMESHARE CLOSING, RAY SPIGNER, )  
MICHAEL DEAN SPIGNER, CHARLES )  
SIMERKA, JUDITH McGINTY, DANIEL )  
GARRETT, and CHRISTAL FRANKLIN, )**

**Defendants.**

**Case No. 2:12-cv-00096  
Judge Aleta A. Trauger**

**ORDER**

For the reasons set forth in the accompanying Memorandum, the court finds as follows:

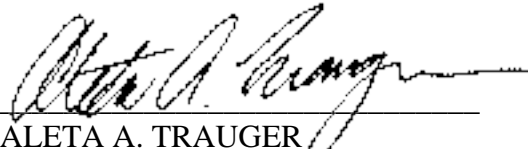
- The Motion to Dismiss filed by defendants Jeff Earle and Smokey Mountain Getaways (Docket No. 105) is **GRANTED IN PART and DENIED IN PART**.
- The Motion for Judgment on the Pleadings filed by defendants Michael Dean Spigner, Ray Spigner, and The Consultant Group, Inc. (collectively, the “Spigner Defendants”) (Docket No. 144) is **GRANTED IN PART and DENIED IN PART**.
- The plaintiffs’ Motion to Strike (Docket No. 172) is **DENIED**.
- All claims by Plaintiff Wyndham Vacation Management, Inc. are hereby **DISMISSED**. Future case captions shall reference only the plaintiff Wyndham Vacation Resorts, Inc. (“WVR”).
- Plaintiff WVR’s fraud claims against the Spigner Defendants, Earle, and SMG are hereby **DISMISSED**.



- WVR's breach of duty of loyalty claim against Dean Spigner is hereby **DISMISSED**.
- WVR's remaining claims will proceed.

It is so **ORDERED**.

Enter this 14<sup>th</sup> day of May 2014.

  
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Aleta A. TRAUGER  
United States District Judge