

# Exhibit A

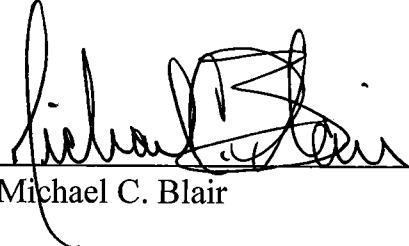
DECLARATION OF MICHAEL C. BLAIR

I, Michael C. Blair, hereby declare:

1. I am one of the attorneys for the defendants in a consolidated case pending before the Maricopa County Superior Court at case no. CV2014-015333.
2. On January 14, 2016, I traveled to Christopher Callahan's offices at Fennemore Craig in Phoenix. Mr. Callahan represents the plaintiff in this consolidated action. At that meeting, Mr. Callahan and I discussed plaintiff's responses to defendants' non-uniform interrogatories. The emails between me and Mr. Callahan following that meeting are attached as exhibit C to defendants' motion to compel.
3. Despite personal consultation and good faith efforts to do so, Mr. Callahan and I were unable to satisfactorily resolve this discovery matter.

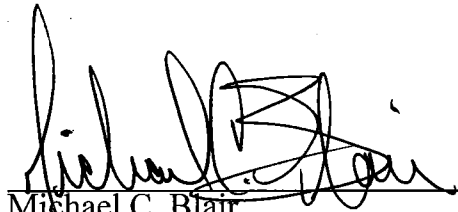
I declare under penalty of perjury that the foregoing is true and correct.

Dated this 26<sup>th</sup> day of January 2016.

  
\_\_\_\_\_  
Michael C. Blair

# Exhibit B

1 Dated this 26<sup>th</sup> day of January 2016.

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5 Michael C. Blair  
6 *Baird, Williams & Greer, LLP*  
7 6225 North 24<sup>th</sup> Street, Suite 125  
8 Phoenix, Arizona 85016  
9 Attorneys for Graham and Clark defendants

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# Exhibit 1

1 FENNEMORE CRAIG, P.C.  
Christopher L. Callahan (No. 009635)  
2 Theresa Dwyer-Federhar (No. 010246)  
Seth G. Schuknecht (No. 030042)  
3 Emily Ward (No. 029963)  
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6 Email: [sschuknecht@fclaw.com](mailto:sschuknecht@fclaw.com)  
Email: [eward@fclaw.com](mailto:eward@fclaw.com)

7 Attorneys for Plaintiff  
8 Desert Mountain Club, Inc.

RECEIVED  
SEP 10 2015  
BAIRD, WILLIAMS & GREER



10 SUPERIOR COURT OF ARIZONA  
11 MARICOPA COUNTY

12 DESERT MOUNTAIN CLUB, INC.,  
13 Plaintiff,

14 v.

15 THOMAS CLARK and BARBARA  
16 CLARK, husband and wife,  
17 Defendants.

No. CV2014-015334  
No. CV2014-015335  
(Consolidated)

**PLAINTIFF'S RESPONSES TO  
DEFENDANTS' NON-UNIFORM  
INTERROGATORIES**

(Assigned to the Hon. Dawn Bergin)

18 DESERT MOUNTAIN CLUB, INC.,  
19 Plaintiff,

20 v.

21 husband and wife,  
22 Defendants.

24 Plaintiff Desert Mountain Club, Inc. (the "Club") hereby responds to Defendant Thomas  
25 Clark's and Barbara Clark's Non-Uniform Interrogatories to Plaintiff as follows:

26 ///







1 phrased because there is no such entity as the "Desert Mountain Golf Club, Inc." The  
2 Club further objects on the grounds that the Interrogatory is overly broad and that the  
3 information sought is neither relevant nor reasonably calculated to lead to the discovery of  
4 admissible evidence. At any one point in time, the Club has approximately 2,000 Members.  
5 Over the course of its existence, the Club has had more than 3,000 Members. This dispute  
6 involves the failure of one Member to honor his contractual commitments to the Club and  
7 the Club's resultant damages. Most of the other Club Members have no knowledge  
8 whatsoever regarding the circumstance of this Member's contractual default and the  
9 identities of such Members are neither relevant nor reasonably calculated to lead to the  
10 discovery of admissible evidence. Defendants have not taken any steps to tailor this  
11 interrogatory in a more narrow fashion to focus upon Members who might conceivably  
12 have knowledge or information that could potentially be pertinent to even a limited aspect  
13 of this claim. *See* Rule 401, Ariz. R. Evid.

14 The Club further objects to this request on the grounds that it seeks confidential  
15 and private information. The Club's members are high net worth individuals who have  
16 joined an exclusive private club. Upon joining the Club, Members expect the Club to  
17 maintain the privacy and confidentiality of their personal information. The Application  
18 for Membership in the Club is conspicuously marked "CONFIDENTIAL" on its cover.  
19 The Club advises prospective applicants for Membership that it will conduct a background  
20 investigation and the prospective applicant must sign an authorization that recites as  
21 follows:

22 I agree that all the information gathered by or on behalf of [the  
23 Club] is privileged, confidential and not subject to disclosure to  
24 myself or any other person other than authorized Company  
personnel and Palm Beach Security, Inc. and its employees and  
agents, , ,

25 The Club expressly commits in the Application to keep information regarding its Members  
26 and prospective Members confidential. All Members are given the option to have their

1 contact information excluded from the Club Directory and all on-line resources and to  
2 have such information secured from any disclosure, even to peer Members/owners. Of the  
3 Club's current Membership, more than one-hundred fifty (150) have availed themselves of  
4 this option in order to keep their contact information and identities secure. Additionally,  
5 the Club has implemented reasonable protocols and protection to safeguard the personal  
6 information of its Members. For example, the Club has enacted restrictions on even the  
7 Members' ability to utilize contact information for other Members for purposes unrelated  
8 to Club business. In its Rules and Regulations, the Club provides that the names,  
9 addresses, email addresses and telephone number of the Members as set forth in the Club's  
10 Membership Directory "are to be treated as confidential and may not be used as a general  
11 mailing list, for any business solicitations or for personal e-mail 'blasts' to all or a portion  
12 of the general membership for any reason by any member." The Club reinforces this  
13 principle in the Directory section of its Members-Only website and to assist in the  
14 implementation of this principle has disabled the ability for Members accessing the website  
15 to print from the Directory. Consistent with its obligation to its Members to preserve the  
16 confidentiality of Members' personal identifying information, the Club cannot respond to  
17 this Interrogatory absent a court order compelling it to do so.

18       Apart from the foregoing privacy concerns that are shared by most, if not all Club  
19 Members, certain Club Members, because of their business, social status, national or  
20 international reputation or other bases, have heightened security concerns. These concerns  
21 have prompted certain Club Members to acquire a number of adjacent parcels to protect  
22 and promote their personal security and have employed full time, resident armed security  
23 personnel twenty-four hours each day. The disclosure of contact information for these  
24 Members could potentially expose such Members to security risks and could subject the  
25 Club to claims from the Members.

26       The Club's concern over the protection of its Members' personal information is

1 **heightened by Defendants' established propensity of publishing information obtained**  
2 **through this litigation on a publicly available website (desertmountaingolfscam.com). The**  
3 **posting of Members' personal information on this website could cause grievous injury to**  
4 **the Members and to the relationship between the Club and its Members.**

5 **Critically, the privacy concerns implicated by this Interrogatory are different than**  
6 **those addressed by the Court in the context of the Motion for Protective Order filed by Mr.**  
7 **Robert Jones. That Motion addressed Mr. Jones' contractual confidentiality obligations to**  
8 **both the Club and its predecessor. This Interrogatory, in contrast, involves the individual**  
9 **Club Members' expectation of privacy in the personal information that they have provided**  
10 **to the Club. To the extent the Court were to determine that the personal information of**  
11 **any particular Club Member or group of Members was pertinent to this action, the Club**  
12 **would still need an order directing it to furnish the requested information. Even were the**  
13 **Court to issue such an order potentially protecting the Club from legal claims, the**  
14 **disclosure of confidential contact information for Club Members could irreparably harm**  
15 **the Club's relationships with its Members, who want to live in private anonymity – which**  
16 **is their right! This is not merely a theoretical right – disclosure of the contact information**  
17 **could create a security risk for at least some members. This Interrogatory, however, is so**  
18 **broadly drafted, covering each and every individual who has ever been a Member of the**  
19 **Club, that there is no relevance to the information requested that would counterbalance the**  
20 **privacy concerns of the Club Members.**

21 **2. Identify all officers and employees of the Desert Mountain Golf Club, Inc. since**  
22 **its inception, including name, residence address, email address, phone number, position held, and**  
23 **dates of employment.**

24 **Response:**

25 **In addition to the foregoing General Objections, which are incorporated here by**  
26 **reference, the Club objects to this interrogatory on the grounds that it is nonsensical as**

1 phrased because there is no such entity as the "Desert Mountain Golf Club, Inc." The  
2 Club further objects on the grounds that the Interrogatory is overly broad and that the  
3 information sought is neither relevant nor reasonably calculated to lead to the discovery of  
4 admissible evidence. See Rule 401, Ariz. R. Evid. During its peak season, the Club  
5 employs in excess of six hundred (600) individuals and, since its inception, has employed  
6 nearly two thousand (2,000) people. These employees work in a number of areas such as  
7 food service, agronomy, golf course maintenance, grounds maintenance, fitness and others.  
8 The vast majority of Club employees have no knowledge of the terms of the Membership  
9 Agreements, the provisions of the Bylaws, the identities of these Defendants or the nature  
10 of these Defendants' conduct that has given rise to this litigation.

11 The Club further objects to this Interrogatory on the grounds that it seeks  
12 confidential and private information. The Club's concern over the protection of its  
13 employees' personal information is heightened by Defendants' established propensity of  
14 publishing information obtained through this litigation on a publicly available website  
15 (desertmountaingolfscam.com). The posting of employees' personal information on this  
16 website could cause grievous injury to the employees and to the relationship between the  
17 Club and its employees.

18 The Club has an obligation to protect the personal information of its employees.  
19 Notwithstanding the Club's objections to this interrogatory, the Club will provide the  
20 name, position, and date of employment those officers and employees who have knowledge  
21 of the pertinent provisions of the Membership Agreements, the Bylaws, the Rules and  
22 Regulations, the Club Membership Plans and the facts surrounding Defendants' attempted  
23 resignation from the Club. Such individuals include the following persons:

24 Robert Jones  
25 General Manager/Chief Operating Officer  
26 12/31/10-Present

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**Kelly Rausch**  
**Chief Financial Officer**  
**12/31/10-Present**

**Deborah Delcore**  
**Membership Manager**  
**12/31/10-Present**

**Robbie Ames**  
**Director of Support Services and Member Relations**  
**8/19/13-Present**

**Ben Viglietta**  
**Assistant Controller**  
**12/31/10-Present**

**Nicole Forbes**  
**Director of Membership Sales**  
**9/5/11-Present**

**Francine Keller**  
**Executive Administrative Assistant**  
**12/31/10-Present**

**The Club objects to the provision of personal contact information for these individuals because, in light of their positions with the Club, they may only be contacted through undersigned counsel. See *Lang v. Superior Court, In & For County of Maricopa*, 170 Ariz. 602, 604-05, 826 P.2d 1228, 1230-31 (App. 1992).**

3. What are the residence addresses, email addresses, and phone numbers for the individuals listed in answer to plaintiff's non-uniform interrogatory No. 11(b).

**Response:**

**In addition to the foregoing General Objections, which are incorporated here by reference, the Club objects to this Interrogatory on the grounds that it seeks personal and confidential information regarding current and former Club Members, Club employees and employees of the Club's predecessor. See Objections to Interrogatories Nos. 1, 2.**

**Moreover, the Club objects to this Interrogatory on the grounds that it seeks information that is already within the knowledge of Defendants and/or their counsel.**

1 Interrogatory No. 11.B required Defendants to identify all persons who may have  
2 knowledge supporting the facts that underlie the affirmative defense that "plaintiff has  
3 failed to act in good faith so far as the defendants' equity position in the Desert Mountain  
4 Golf Club is concerned, diminishing its value . . ." In responding to this Interrogatory,  
5 Defendants identified persons employed by the Club (Nicole Forbes and Bob Jones),  
6 persons believed to have been employed by the Club's predecessor or the developer of the  
7 Club (Dowdell Brown, R.D. Stephens, R.R. Neyrey, Polly Norton, R.A. Sonntag, Lyle  
8 Anderson, Gerald Haddock and John Underwood), current and/or former Club Members  
9 (Pat Gallagher, Phil Briggs, Dick Segal (sic) Segil, Bob DuPree, Joe Sessa, Dick Strain, Jim  
10 Hogshire, Shelby Yastrow and Virginia Hanssen) and even the Defendants themselves  
11 (Thomas Clark, Barbara Clark). This Interrogatory seeks contact information for these  
12 individuals whom Defendants have previously identified.

13 Presumably, at the time they responded to Interrogatory No. 11.B, Defendants had  
14 some basis to believe that these individuals had knowledge regarding the facts behind the  
15 affirmative defense addressed in Interrogatory No. 11. Defendants could not have known  
16 whether these individuals had such knowledge without having had some prior  
17 communication with such individuals. Hence, the information requested through this  
18 interrogatory -- the residential addresses, email addresses and telephone numbers for these  
19 individuals -- must be known to Defendants.

20 The Club further objects that the information sought through this Interrogatory is  
21 the personal, private and confidential information of the identified Club employees,  
22 employees of the Club's predecessor and Club Members and that the provision of such  
23 information by the Club in the absence of a court order compelling its production could  
24 subject the Club to potential liability to such individuals. The Club will provide the  
25 requested information upon the issuance of a court order determining that the relevance of  
26 the requested information is sufficient to warrant its production notwithstanding the

1 **privacy concerns of the affected individuals.**

2 **The Club further objects to the provision of the requested information regarding**  
3 **current Club employees (Nicole Forbes and Bob Jones) because Defendants may contact**  
4 **these individuals only through undersigned counsel. *Lang v. Superior Court, In & For***  
5 ***County of Maricopa*, 170 Ariz. 602, 604-05, 826 P.2d 1228, 1230-31 (App. 1992).**

6 4. Identify each former member who was a member of Desert Mountain Golf Club,  
7 Inc. as of December 31, 2010.

8 **Response:**

9 **In addition to the foregoing General Objections, which are incorporated here by**  
10 **reference, *see* Objection to Interrogatory No. 1.**

11 5. How much did each former member identified in the answer to interrogatory  
12 number four pay or receive to get out of the membership?

13 **Response:**

14 **In addition to the foregoing General Objections, which are incorporated here by**  
15 **reference, the Club objects to this Interrogatory on the grounds that it calls for the**  
16 **production of personal, confidential and proprietary information of certain former**  
17 **Members of the Club, the production of which could be embarrassing to former Members**  
18 **and could potentially expose the Club to liability. The Club further objects to this**  
19 **Interrogatory on the grounds that what a particular Member paid to the Club or was paid**  
20 **by the Club or others upon departing the Club is neither relevant nor reasonably**  
21 **calculated to lead to the discovery of admissible evidence.**

22 **Upon an agreement from Defendants and their counsel to treat the responsive**  
23 **information as confidential, to use such information only in connection with this litigation**  
24 **and to refrain from disseminating this information beyond the parties to this lawsuit, their**  
25 **counsel, their counsels' support staff and those consultants and/or testifying experts**  
26 **retained in connection with this litigation, the Club will provide aggregate information**

1 regarding the number of Members who have departed the Club since December 31, 2010,  
2 the breakdown in the types of Memberships (Equity Golf, Equity Club/Lifestyle; Non-  
3 Equity) for those Members who have left the Club, the number of Members who have left  
4 the Club pursuant to various specified programs and/or protocols (the 2011-2012  
5 Surrender List membership assignment option, Change in the Entity Designee,  
6 Delinquency, Foreclosure/Bankruptcy, Legacy Transfers, Member Arranged Transfers,  
7 Expulsion, Settlement Agreement, Temporary Marketing Program/Membership  
8 Marketing Program, Membership Resale Program, Real Estate Transfer, Surrender List,  
9 Non-Equity Membership) for leaving the Club, the methods in which the Memberships of  
10 those who have left the Club have been treated after the Member's departure (returned to  
11 Club, transferred), the number of Members who have received any sort of payment upon  
12 the transfer of their Memberships, the amounts that have been paid to Members (without  
13 information identifying the specific Members) upon the transfer of their Memberships, the  
14 number of Members who have left the Club without any payment made or received  
15 regarding their Membership, the number of Members who have made a payment to the  
16 Club upon the transfer of their Memberships and the amounts that have been paid by  
17 Members (without information identifying the specific Members) to the Club upon the  
18 transfer of their Memberships.

19 6. Identify each member Desert Mountain Golf Club, Inc. has pursued—sued or sent  
20 to collection—after a resignation from Desert Mountain, a departure of that member from Desert  
21 Mountain, or the member was expelled, removed, or quit the club.

22 **Response:**

23 In addition to the foregoing General Objections, which are incorporated here by  
24 reference, the Club objects to this Interrogatory on the grounds that it calls for the  
25 production of personal, confidential and proprietary information of certain current and  
26 former Members of the Club, the production of which could be embarrassing to former



1 Members and could potentially expose the Club to liability. Apart from the previously  
2 referenced procedures and protocols employed by the Club to safeguard the privacy of its  
3 Members' contact information, the Club also provides through its Bylaws that information  
4 regarding Member discipline must be "held in strictest confidence." 2014 Bylaws, § 7.1.  
5 The Club further objects to this Interrogatory on the grounds that whether, how and to  
6 what extent the Club has "pursued, sued or sent to collection" certain of its Members is  
7 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in  
8 the context of this litigation, which involves the breach of their Membership Agreement by  
9 Thomas Clark and his wife Barbara. The actions that the Club took or refrained from  
10 taking with regard to amounts owed by other Members to the Club have no bearing  
11 whatsoever on whether Defendants breached their contractual undertakings to the Club,  
12 the damages that resulted to the Club from this breach or the Club's entitlement to pursue  
13 these Defendants for the amounts owed.

14 Nonetheless, in response to this Interrogatory, the Club responds that it has sued  
15 three Members and their spouses who have attempted to resign from the Club and, as a  
16 result of these attempted resignations, have breached their contractual undertakings to pay  
17 dues, fees and other charges until such time as their Memberships have been transferred  
18 and reissued by the Club.

19 The Club has also pursued a number of Members for various amounts owed to the  
20 Club for various reasons through collections. Upon an agreement from Defendants and  
21 their counsel to treat the responsive information as confidential, to use such information  
22 only in connection with this litigation and to refrain from disseminating this information  
23 beyond the parties to this lawsuit, their counsel, their counsels' support staff and those  
24 consultants and/or testifying experts retained in connection with this litigation, the Club  
25 will provide aggregate information regarding the Members sent to collections.

26 7. Identify members who have been expelled from Desert Mountain Golf Club, Inc.

1 since 2010.

2 **Response:**

3       **In addition to the foregoing General Objections, which are incorporated here by**  
4 **reference, the Club objects to this interrogatory on the grounds that it is nonsensical as**  
5 **phrased because there is no such entity as the “Desert Mountain Golf Club, Inc.” The**  
6 **Club further objects on the grounds that it calls for the production of personal, confidential**  
7 **and proprietary information of former Members of the Club, the production of which**  
8 **could be embarrassing to former Members and could potentially expose the Club to**  
9 **liability. Apart from the previously referenced procedures and protocols employed by the**  
10 **Club to safeguard the privacy of its Members’ contact information, the Club also provides**  
11 **through its Bylaws that information regarding Member discipline must be “held in strictest**  
12 **confidence.” 2014 Bylaws, § 7.1. The Club further objects to this Interrogatory on the**  
13 **grounds that whether it has expelled Members from the Club and the bases for such**  
14 **expulsions are neither relevant nor reasonably calculated to lead to the discovery of**  
15 **admissible evidence in the context of this litigation, which involves the breach of their**  
16 **Membership Agreement by Thomas Clark and his wife Barbara. The actions that the Club**  
17 **took in expelling other Members from the Club have no bearing whatsoever on whether**  
18 **Defendants breached their contractual undertakings to the Club, the damages that resulted**  
19 **to the Club from this breach or the Club’s entitlement to pursue these Defendants for the**  
20 **amounts owed.**

21       **The Club will identify those Members whom it has expelled upon a determination**  
22 **from the Court that the probative value of this information is sufficient to warrant its**  
23 **production notwithstanding the privacy concerns of the former Members and the issuance**  
24 **of a Court order directing the production of this information.**

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DATED this 8th day of September, 2015.

FENNEMORE CRAIG, P.C.

By 

Christopher L. Callahan  
Theresa Dwyer-Federhar  
Seth G. Schuknecht  
Emily Ward  
Attorneys for Plaintiff  
Desert Mountain Club, Inc.

ORIGINAL of the foregoing mailed this  
8th day of September, 2015, to:

Daryl M. Williams  
Baird, Williams and Greer, LLP  
6225 N. 24<sup>th</sup> Street, Suite 125  
Phoenix, AZ 85016  
Email: [darylwilliams@bwglaw.net](mailto:darylwilliams@bwglaw.net)  
*Attorneys for Defendants*

  
Rebecca Camelio

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VERIFICATION

I, Robert Jones, am the General Manager/Chief Operating Officer of Desert Mountain Club, Inc. (the "Club"). I am authorized to make this verification on the Club's behalf. I have reviewed the Club's responses to Defendants' Non-Uniform Interrogatories to the Club dated July 22, 2015 ("Response"). The responses and facts set forth therein were prepared and compiled by numerous individuals at the Club including myself. Based upon my review of the attached Response, a reasonable review of corporate records and reliance upon information received from others believed to be reasonably credible sources, the facts and matters set forth herein are true to the best of my knowledge, information and belief.

I declare the foregoing is true under penalty of perjury.

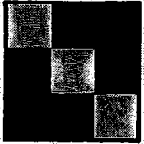
Executed this 8th day of September, 2015.



---

Robert Jones

# Exhibit 2



Business • Trials  
Aviation

BAIRD WILLIAMS  
& GREER LLP  
Attorneys at Law

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Michael C. Blair  
[mblair@bwglaw.net](mailto:mblair@bwglaw.net)

January 13, 2016

**Sent via email**

Christopher Callahan  
Fennemore Craig, PC  
2394 E. Camelback Rd., Suite 600  
Phoenix, AZ 85016-3429  
[ccallahan@fcclaw.com](mailto:ccallahan@fcclaw.com)

***Re: Desert Mountain Club v. Clark, et al.; Plaintiff's Responses to Defendants' Discovery Requests***

Dear Mr. Callahan:

In advance of our meeting on January 14 at your office, this letter sets forth some of our concerns with plaintiff's responses to defendants' non-uniform interrogatories in the Clark matter. Plaintiff's responses are dated September 8, 2015. I am unaware of any supplements, so this letter addresses those original responses. This letter and our in-person meeting tomorrow is intended to try to resolve a discovery dispute and to satisfy Rule 37(a)(2)(C) Ariz. R. Civ. P. if we cannot reach an agreement.

**NON-UNIFORM INTERROGATORIES**

1. Identify all current and former members of the Desert Mountain Golf Club, Inc.,<sup>1</sup> and provide contact information to the extent it is known for each of these people, including mailing address, email address, and phone number.

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<sup>1</sup> As pointed out in its responses, plaintiff's correct name is Desert Mountain Club, Inc. In its general objections, plaintiff indicated that it would "construe all references to 'Desert Mountain Golf Club, Inc.' as being intended to reference Desert Mountain Club, Inc." Response, page 3, lines 15-16.

Christopher Callahan  
January 13, 2016  
Page 2

In response, plaintiff set forth three pages of objections explaining why it would not produce the requested information. However, none of them have any merit. The contact information for approximately 3,000 members is not burdensome or difficult to gather. It should not require more than a simple key stroke on a computer program to print out the requested information. Defendants are entitled to this information to discover how many other members have been treated similarly by plaintiff. The only objection that may arguably have any substance is plaintiff's statement that more than 150 members have availed themselves of some alleged option to keep their contact information and identity secure. Even if that is true, that means approximately 2,850 individuals members have not chosen that option. At a minimum, then, plaintiff should have produced responsive information about those 2,850 individuals and then moved for a protective order regarding producing information about those 150 members. But plaintiff produced no information about anyone, nor did it file a motion with the court. To the contrary, plaintiff stated at least twice in its response that it would not produce this information without a court order. Response, page 5, line 17, and page 6, line 13. I hope we can reach an agreement without the need to involve the court, but it appears plaintiff may already be of the opinion that it will not produce anything unless an order compelling it to do so is obtained.

2. Identify all officers and employees of the Desert Mountain Golf Club, Inc. since its inception, including name, residence address, email address, phone number, position held, and dates of employment.

Plaintiff provided the name, titles, and dates of employment for seven individuals. While this token response is appreciated, there are certainly many more employees' names and information that should have been produced. Obviously, we are not seeking contact information for seasonal grounds workers or servers in a restaurant. But the contact information for all administrative and managerial employees must be provided. So you know, we requested the personal information for these employees in case we ever need to serve a subpoena upon them to appear at trial or at a deposition. To allay your concerns regarding the *Lang v. Superior Court* case, if you will avow that you are authorized to accept service of a subpoena upon any of plaintiff's employees, then we will not need the individual personal contact information beyond just the individual's name, title, and dates of employment. To the extent you cannot make such an avowal, then please provide the personal individual information for those employees.

3. What are the residence addresses, email addresses, and phone numbers for the individuals listed in answer to plaintiff's non-uniform interrogatory No. 11(b).

Just because defendants provided the names of persons it believes have information in response to plaintiff's interrogatory 11(b) does not mean that defendants have the actual contact information for those individuals, nor does it necessarily follow that defendants already know this

Christopher Callahan

January 13, 2016

Page 3

information -- if we did, we would not have requested it. Apparently, plaintiff is unwilling to produce anything responsive to interrogatory number 3 absent a court order. Response, page 9, lines 23-25. I hope we can come to a resolution short of court intervention.

4. Identify each former member who was a member of Desert Mountain Golf Club, Inc. as of December 31, 2010.

Plaintiff simply incorporated its objection to interrogatory number 1. Although there may be some overlap between the two interrogatories, defendants need to know who was a member of the club on this specific date. This information should not be difficult to obtain. Defendants should not be forced to cull through 3,000 names to determine who was a member when the club was formed. Again, this should be nothing more than a simple key stroke to pull up the proper information and then print it out.

5. How much did each former member identified in the answer to interrogatory number four pay or receive to get out of the membership?

It appears plaintiff wants a protective order or confidentiality agreement in place before it will produce this information. But plaintiff has not made the requisite showing to the court to be entitled to such an order. Plaintiff clearly has responsive information, and yet refuses to produce it until a confidentiality agreement is signed. If plaintiff believes the information is confidential or subject to protection, then it is incumbent upon plaintiff to obtain such an order. *See* Rule 26(c)(1) Ariz. R. Civ. P. To my knowledge, plaintiff has never moved for an order to protect this requested information. The obligation is upon the party claiming confidentiality to obtain a protective order, not upon the requesting party to agree to a confidentiality agreement before responsive information will be produced.

6. Identify each member Desert Mountain Golf Club, Inc. has pursued -- sued or sent to collection -- after a resignation from Desert Mountain, a departure of that member from Desert Mountain, or the member was expelled, removed, or quit the club.

Plaintiff clearly has responsive information to this interrogatory since it claims to have pursued an unspecified number of other members for various amounts owed. Again, though, plaintiff claims it will not produce this information until a confidentiality agreement is in place. But that is not how a protective order works under Rule 26(c). This information is relevant and should be produced. Plaintiff either needs to file a motion for protective order, or produce the requested information.



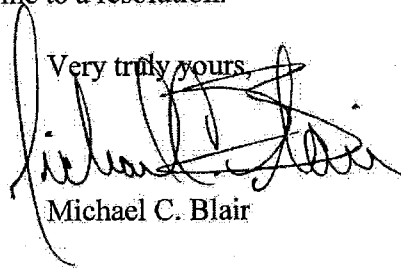
Christopher Callahan  
January 13, 2016  
Page 4

7. Identify members who have been expelled from Desert Mountain Golf Club, Inc. since 2010.

Plaintiff appears to be unwilling to produce this information unless the court orders it to do so. Response, page 13, line 24. Again, I hope we can resolve this short of court involvement.

I look forward to discussing each of plaintiff's responses to defendants' interrogatories with you at our meeting. Hopefully, we can come to a resolution.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael C. Blair", written over the typed name below.

Michael C. Blair

MCB/mkm

# Exhibit C

## Michael C. Blair

---

**From:** Michael C. Blair  
**Sent:** Friday, January 15, 2016 10:55 AM  
**To:** ccallahan@fclaw.com  
**Cc:** Michael C. Blair; Marcy McAlister; Daryl M. Williams  
**Subject:** Clark, et al adv. Desert Mountain

Chris:

Thank you for meeting with me yesterday to address plaintiff's responses to defendants' discovery requests. Here is a recap of what we discussed and what needs to happen going forward:

For defendants' interrogatories 1, 4, and 7 – your client will not/cannot produce the information without a court order directing it to do so. Although you stated your belief that the requested information was irrelevant, you were clear that your client had to have the court issue an order before that information would be produced. Accordingly, we will proceed with filing a motion to compel this information.

For defendants' interrogatories 5 and 6 – you believe a protective order must be in place before you will produce that requested information. Apparently, the court addressed the issue about a protective order at a hearing last August. I need to listen to the recording of that hearing to ascertain what the court said. You also indicated that there had been some email communications between you and Mr. Williams last August and September about a protective order. I will review those discussions and get back to you on this point.

For defendants' interrogatory 2 – you indicated the club will produce additional and/or supplemental information, to the extent it exists, about employees in managerial or administrative capacities after I provide a more detailed description of what we are seeking. You agreed to get me that information within two weeks. Accordingly, I will calendar January 29 as the date you will provide the supplemental information. Here is a revised interrogatory no. 2:

2. Identify all administrative and managerial officers and employees of the Desert Mountain Club, Inc. since its inception, including name, residence address, email address, phone number, position held, and dates of employment, who have or had any responsibility interacting with club members, including, but not limited to: member applications, review of member applications, approval of potential members, denial of potential members, member complaints, termination of members, expulsion of members, setting member policies and rules, changing member policies and rules, sales or transfers of memberships, disputes between members, member disputes with the club, questions by members on any subject and the club's responses thereto, and all other interactions of any kind between the club and its members.

For defendants' interrogatory 3 – you said the club will produce that information to the extent the club has it. I will calendar January 29 for a response.

Towards the end of our meeting, I asked you if the club would voluntarily produce the recent settlement agreement it entered into with Ms. Dillon-Jones. You said no. I will include that in the motion to compel.

Finally, we discussed the club's recently filed motion for summary judgment. I told you we would be filing a motion under rule 56(f) to get additional time to respond so we can get the information we are seeking in our discovery requests.

Mike



*Michael C. Blair*

**BAIRD WILLIAMS & GREER, LLP**

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[mblair@bwqlaw.net](mailto:mblair@bwqlaw.net)

[www.bwqlaw.net](http://www.bwqlaw.net)



## Michael C. Blair

---

**From:** CCALLAHA@FCLAW.com  
**Sent:** Friday, January 15, 2016 1:10 PM  
**To:** Michael C. Blair  
**Subject:** RE: Clark, et al adv. Desert Mountain [FC-Email.FID6446486]

Michael:

Thank you for our meeting yesterday. I believe that we made some progress.

With the exception of Interrogatory No 2, all of the interrogatories ask the Club to disclose information regarding its Members. As we discussed, the Members expect the Club to retain their contact information and their status vis-à-vis the Club confidential. Accordingly, the Club cannot disclose this information without an order compelling it to do so. The confidentiality of the Member information, however, is not the only basis upon which the Club has objected to the interrogatories. The other objections remain as the Clarks have not offered to revise the interrogatories, except as you indicate for Interrogatory No. 2.

This response is intended further to clarify the previously made objections.

Interrogatory No. 1, which seeks the identification and contact information for every individual has ever been a Club Member, is not reasonably calculated to lead to the discovery of relevant or admissible information is also overbroad as drafted.

Your proposed revision of Interrogatory No. 2 remains problematic. It continues to seek identification of "all administrative and managerial officers and employees" of the Club. This includes a vast number of individuals who play no role in the Membership issues at play in this litigation. While your listing of various types of Membership responsibilities is helpful in informing the Club of the primary focus of the Clarks' inquiry, it does not save the interrogatory from overbreadth since it is preceded by the phrase "including, but not limited to." I will forward your email to the Club and will ask whether there are any individuals other than those previously disclosed who play any part in the activities that you list. Please confirm that this will satisfy your request.

On Interrogatory No. 3, we offered to check whether the Club has any contact information regarding the contact information for those individuals the Clarks identified in their answer to Interrogatory No. 11(B) from the Club, who were employees of Desert Mountain Properties Limited Partnership. The other individuals listed in the Clarks' answer are Members or former Members and subject to the objections and issues previously identified.

Our answer to Interrogatory Nos. 5 and 6 offered, upon entry of an appropriate protective order, to provide aggregate information regarding the number of Members who have departed the Club since December 31, 2010, broken down into categories, and the circumstances under which they departed the Club. Please confirm that production of the information in this fashion will suffice. We would be willing to entertain further interrogatories if, upon review of the aggregate information, you believe something further is warranted.

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**CONFIDENTIALITY NOTICE:** The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

# Exhibit D



SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-015334

08/19/2015

HON. DAWN M. BERGIN

CLERK OF THE COURT  
C. Fitch  
Deputy

DESERT MOUNTAIN CLUB INC

CHRISTOPHER L CALLAHAN

v.

THOMAS CLARK, et al.

DARYL M WILLIAMS

CHRISTOPHER A LAVOY

**MATTER UNDER ADVISEMENT**

East Court Building – Courtroom 713

1:32 p.m. This is the time set for Oral Argument on Non-Party Robert Jones' Motion for Protective Order; Defendants' Motion for Judgment on the Pleadings in CV2014-015334; Plaintiff's Motion for Summary Judgment in CV2014-015335; and Defendants' Motion for Judgment on the Pleadings in CV2014-015335. Present on behalf of the Plaintiff are counsel, Christopher L. Callahan and Seth G. Schuknecht. Present on behalf of Non-Party Robert Jones is counsel, Christopher A. Lavoy. Present on behalf of the Defendants is counsel, Daryl M. Williams. Robert Ames, Director of Desert Mountain Club, Inc., is also present.

Court Reporter Vanessa Melstrom is present and a record of the proceedings is also made by audio and/or videotape.

Oral argument is presented on Non-Party Robert Jones' Motion for Protective Order.

For the reasons set forth on the record,

**IT IS ORDERED** that the parties shall meet and confer and submit a stipulated protective order addressing the Jones deposition.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-015334

08/19/2015

Oral argument is presented on (1) Defendants' Motion for Judgment on the Pleadings in CV2014-015334; (2) Plaintiff's Motion for Summary Judgment in CV2014-015335; and (3) Defendants' Motion for Judgment on the Pleadings in CV2014-015335.

For the reasons set forth on the record,

**IT IS ORDERED** taking these Motions under advisement.

3:29 p.m. Matter concludes.