

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>Golden Circle Real Estate Group, L.L.C., D/B/A Keller Williams Realty, Greater Des Moines, Plaintiff,</p> <p>vs.</p> <p>Iowa Realty Company, Inc. Defendant.</p>	<p>No. LACL125527</p> <p>PLAINTIFF'S DISMISSAL WITHOUT PREJUDICE</p>
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Petitioner Golden Circle Real Estate Group, LLC, by and through its undersigned counsel, hereby submits this voluntary dismissal of their Petition at Law and states as follows:

1. The Petition was filed on June 27, 2012.
2. Trial in this matter is set for November 4-8, 2013.
3. At the deposition of Roger Michael Knapp, President of Iowa Realty and Homes

Services of Iowa, taken July 10, 2013 by the undersigned counsel, Mr. Knapp stated the following (Page 147, line 15 – Page 148, line 7):

Q. And is it your testimony today that there is some solution to a reversal of your policy, it's just you're not able to articulate it today?

A. **What I would say is I don't – I do not see any apparent solution. And I stated my position in 2006, and Keller Williams stated their position when they file a lawsuit. That's the extent of the dialogue we've had.**

Q. Okay. Well, is there anything you'd like me to tell them as we sit here today?

A. **Drop the lawsuit.**

Q. And what – I mean, what do they get in return for that?

A. **Maybe a conversation. I don't know. Nothing promised.**

4. At the deposition of James Albert Koolhof, Executive Vice President and Chief Administrative Officer of Home Services of Iowa, taken on August 5, 2013 by the undersigned counsel, Mr. Koolhof stated the following (Page 76, line 1-12):

Q. Does that suggest that somehow Iowa Realty would review their policy if Keller Williams stopped recruiting Iowa Realty Agents?

Mr. Watkins: Objection, Form.

A. I think that if we were not in the middle of a lawsuit and Keller Williams talked to us about changes that they might make in their policy and program, we would certainly talk with them about those. Without such a discussion, it's hard to imagine how a different conclusion than where we're sitting would happen.

5. By the filing of this dismissal, Petitioner voluntarily dismisses this Petition without prejudice.

6. Under Rule 1.943 of the Iowa Rules of Civil Procedure, Petitioner may voluntarily dismiss this case without order of the court up to and until ten days prior to trial and this voluntary dismissal is timely filed.

WHEREFORE, Petitioner hereby dismisses its Petition in this matter without prejudice pursuant to Rule 1.943 of the Iowa Rules of Civil Procedure.

Respectfully submitted,

/s/ Matthew G. Whitaker

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ATTORNEYS FOR PLAINTIFF

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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 GOLDEN CIRCLE REAL ESTATE :
 GROUP, LLC, d/b/a KELLER :
 WILLIAMS REALTY, GREATER :
 DES MOINES, :
 :
 Plaintiff, :
 :
 vs : No. LACL125527
 :
 IOWA REALTY COMPANY, INC., :
 :
 Defendant. :
 -----X

ORIGINAL

DEPOSITION OF ROGER MICHAEL KNAPP,

taken by the Plaintiff before Julie M. McCurnin, Certified Shorthand Reporter of the State of Iowa, at 400 East Court Avenue, Suite 346, Des Moines, Iowa, commencing at 9:13 a.m., Wednesday, July 10, 2013.

APPEARANCES:

For the Plaintiff: MATTHEW G. WHITAKER, ESQ.
JANET J. GUSTAFSON, ESQ.
KENDRA L. M. ARNOLD, ESQ.
Whitaker, Hagenow & Gustoff, LLP
400 East Court Avenue, Suite 346
Des Moines, IA 50309

For the Defendants: RHYDDID WATKINS, ESQ.
Faegre Baker Daniels, LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

JOAN JOHNSON, ESQ.
Iowa Realty
3501 Westown Parkway
West Des Moines, Iowa 50266

Also Present: Kyra C. Bell, Plaintiff Rep.

JULIE M. McCURNIN - CERTIFIED SHORTHAND REPORTER

SUSAN FRYE AND ASSOCIATES, INC.
300 LOCUST, #36, DES MOINES, IA 50309
515-284-1972

1 MR. WATKINS: Objection to form.

2 A. All that I can think of right now.

3 I'm not sure I can remember all the
4 ones I've given you today.

5 BY MR. WHITAKER:

6 Q. Right.

7 Is it your testimony today that you are
8 not -- you have not adopted this policy relating to
9 Keller Williams in order to put Keller Williams out
10 of business?

11 A. No.

12 Q. Have you adopted this policy in order
13 to punish them in some way?

14 A. No.

15 Q. And is it your testimony today that
16 there is some solution to a reversal of your
17 policy, it's just you're not able to articulate it
18 today?

19 A. What I would say is I don't -- I do not
20 see any apparent solution.

21 And I stated my position in 2006, and
22 Keller Williams stated their position when they
23 filed a lawsuit. That's the extent of the dialogue
24 we've had.

25 Q. Okay.

1 Well, is there anything you'd like me
2 to tell them as we sit here today?

3 A. Drop the lawsuit.

4 Q. And what -- I mean, what do they get
5 in return for that?

6 A. Maybe a conversation. I don't know.
7 Nothing promised.

8 MR. WHITAKER: All right. Let's take a
9 break.

10 (Short recess.)

11 MR. WHITAKER: Back on the record.
12 Thank you.

13 EXAMINATION (Resumed)

14 BY MR. WHITAKER:

15 Q. Could you describe for me why you
16 believe it is in Iowa Realty's listing customers --
17 why it is in their best interest that you don't
18 share commissions with Keller Williams when Keller
19 Williams represents a buyer?

20 MR. WATKINS: Objection to form.

21 A. I think, Matt, that -- two reasons.
22 One is, you know, the absolute consequence to an
23 individual seller of having their home sold, it
24 would be such a rare event that what we're doing
25 would in any way inhibit the sale of their home.

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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 GOLDEN CIRCLE REAL ESTATE :
 GROUP, LLC, d/b/a KELLER :
 WILLIAMS REALTY, GREATER :
 DES MOINES, :
 :
 Plaintiff, :
 :
 vs :
 :
 IOWA REALTY COMPANY, INC., :
 :
 Defendant. :
 - - - - -X

ORIGINAL

No. LACL125527

DEPOSITION OF JAMES ALBERT KOOLHOF,

taken by the Plaintiff before Julie M. McCurnin, Certified Shorthand Reporter of the State of Iowa, at 400 East Court Avenue, Suite 346, Des Moines, Iowa, commencing at 9:03 a.m., Monday, August 5, 2013.

APPEARANCES:

For the Plaintiff: MATTHEW G. WHITAKER, ESQ.
 JANET J. GUSTAFSON, ESQ.
 Whitaker, Hagenow & Gustoff, LLP
 400 East Court Avenue, Suite 346
 Des Moines, IA 50309

For the Defendant: RHYDDID WATKINS, ESQ.
 Faegre Baker Daniels, LLP
 2200 Wells Fargo Center
 90 South Seventh Street
 Minneapolis, MN 55402-3901

JOAN JOHNSON, ESQ.
 Iowa Realty
 3501 Westown Parkway
 West Des Moines, Iowa 50266

Also Present: Michael Knapp, Defendant Rep.

JULIE M. McCURNIN - CERTIFIED SHORTHAND REPORTER

SUSAN FRYE AND ASSOCIATES, INC.
 300 LOCUST, #36, DES MOINES, IA 50309
 515-284-1972

CONDENSED

1 Q. Does that suggest that somehow Iowa
2 Realty would review their policy if Keller Williams
3 stopped recruiting Iowa Realty agents?

4 MR. WATKINS: Objection, form.

5 A. I think that if we were not in the
6 middle of a lawsuit and Keller Williams talked to
7 us about changes that they might make in their
8 policy and program, we would certainly talk with
9 them about those.

10 Without such a discussion, it's hard to
11 imagine how a different conclusion than where we're
12 sitting would happen.

13 BY MR. WHITAKER:

14 Q. You mentioned the filter and that Brian
15 Wentz and Keller Williams were added to that
16 filter.

17 Do you remember just saying that?

18 A. Right.

19 Q. Does that mean that the filter was
20 capturing all E-mails coming from certain domain
21 names?

22 Do you know what that means?

23 A. Yes.

24 Q. Okay.

25 A. Clearly, most businesses of any size