

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

GROUP MRJ, INC., d/b/a PASSPORT  
PIZZA, and PASSPORT USA, INC.,

Plaintiffs,

Case No. 2014-584-CK

vs.

GALLO RETAIL GROUP, LLC, and  
ANTHONY GALLO, a/k/a TONY J.  
GALLO,

Defendants.

and

GALLO RETAIL GROUP, LLC,

Plaintiff,

Case No. 2014-666-CK

vs.

MICHAEL BISCHOFF and GROUP  
MRJ, INC., d/b/a PASSPORT PIZZA,

Defendants.

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OPINION AND ORDER

Michael Bischoff and Group MRJ, Inc. (the “Passport Parties”) have moved to partially strike the portion of the December 16, 2013 Order entered by Judge Leduc requiring Defendants to file a bond of \$2,500.00 with the court officer, and to order that the bond be returned to them. Gallo Retail Group, Inc. (“Gallo Group”) has filed a response and requests that the Court enter an order allowing it to retain \$650.00 of the bond in satisfaction of Judge Leduc’s January 28, 2014 Order awarding it \$650.00 in

attorney fees based on the Passport Parties' failure to appear at a January 13, 2014 hearing.

The Passport Parties also request that the Court enter an order requiring the 42-1 District Court to return a \$3,000.00 fine imposed by Judge Leduc on August 26, 2013 for violating the temporary restraining order in place.

*Arguments and Analysis*

1) Return of the \$2,500.00 Bond

It appears undisputed that the Passport Parties are entitled to have any balance of the bond over \$650.00 returned to them. However, the parties dispute whether the Gallo Group should be allowed to deduct the \$650.00 attorney fee award from the balance prior to the bond being return to the Passport Parties. The Passport Parties first objection is that they did not receive notice of the January 28, 2014 Order. However, their counsel, at the April 3, 2014 hearing before this Court conceded that he was present at the hearing at the time that Judge Leduc entered the Order in question. Accordingly, the Court is convinced that the Passport Parties' contention is without merit.

In addition, the Passport Parties did not challenge the January 28, 2014 Order until February 24, 2014, the date they filed objections to the Order. Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). In this case, the Passport Parties failed to challenge the Order within the time required by MCR 2.119(F)(1), and the Passport Parties have failed to cite to any other authority that would allow them to challenge the Order at such a late date. Consequently, the Passport Parties' motion is untimely and must be denied. As a result,

the Court is convinced that the Gallo Group may retain \$650.00 of the balance remaining on the \$2,500.00 bond in satisfaction of the January 28, 2014 Order.

2) Return of the \$3,000.00 Fine

The Passport Parties also contend that they are entitled to recover the \$3,000.00 fine they paid to the 42-1 District Court as required by Judge Leduc on August 26, 2014. However, the Passport Parties concede that they did not appeal or otherwise challenge the Order in a timely fashion. Moreover, the Passport Parties have failed to cite to any authority that would authorize this Court to order that the \$3,000.00 fine be refunded in the situation presented in this matter. A party may not merely state a position and then leave it to the Court to rationalize and discover the basis for the claim, nor may he leave it to the Court to search for authority to sustain or reject his position. *People v Mackle*, 241 Mich App 583, 604 n 4; 617 NW2d 339 (2000). Based on the tardiness of the instant motion, and the Passport Parties' failure to properly provide support of their request, the Court is convinced that the request must be denied.

*Conclusion*

For the reasons set forth above, Michael Bischoff and Group MRJ, Inc's motion for return of the balance of the \$2,500.00 bond is GRANTED, IN PART, and DENIED, IN PART. The court officer shall tender the first \$650.00 of the balance of the bond to the Gallo Retail Group, LLC. Any remaining balance of the bond shall be returned to Michael Bischoff and Group MRJ, Inc.

Further, Michael Bischoff and Group MRJ, Inc's motion for return of the \$3,000.00 fine they paid to the 42-1 District Court is DENIED. Pursuant to MCR

2.602(A)(3), this Opinion and Order neither resolves the last pending claim nor closes this case.

IT IS SO ORDERED.

/s/ John C. Foster  
John C. Foster, Circuit Judge

Dated: April 17, 2014

JCF/sr

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