

OCT 21 2016

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

CHRISTOPHER D. RICH, Clerk
By EMILY CHILD
DEPUTY

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

T3 ENTERPRISES, INC., an Idaho corporation; and THURSTON ENTERPRISES, INC., an Idaho corporation,

Plaintiffs,

vs.

SAFEGUARD BUSINESS SYSTEMS, INC., a Delaware corporation; SAFEGUARD ACQUISITIONS, INC., a Delaware corporation; TRESSA MCLAUGHLIN, an individual; MICHAEL DUNLAP, an individual; IDAHO BUSINESS FORMS, INC., an Idaho corporation; JAMES DUNN, an individual; JDHRS, LLC, an Idaho limited liability company; KMMR, LLC, an Idaho limited liability company; FORM SYSTEMS INC. dba DOCUSOURCE PRINT MANAGEMENT, an Oregon corporation; DELUXE CORPORATION, a Minnesota Corporation; and DOES 1-10,

Defendants.

Case No. CV-OC-1416400

MEMORANDUM DECISION AND ORDER ON MOTIONS FOR SUMMARY JUDGMENT AND TO STRIKE

I. INTRODUCTION

This action arises from a distributorship relationship between Plaintiffs, Thurston Enterprises, Inc. ("Thurston") and T3 Enterprises, Inc. ("T3"), and Defendant, Safeguard

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Business Systems (“Safeguard”). The claims currently at issue in this action include the following¹:

- **Count 1:** by Thurston: Breach of RDA (distributorship agreement) Safeguard;
- **Count 2:** by Thurston: Breach of Covenant of Good Faith and Fair Dealing against Safeguard;
- **Counts 3 & 4:** By T3 and Thurston, respectively: Tortious Interference with Contractual Relations against Safeguard Acquisitions, Inc. (“SAI”) and Deluxe Corporation (“Deluxe”);
- **Count 7:** By T3: Intentional Inference with Prospective Economic Advantage against SAI and Deluxe;
- **Count 8:** By Thurston: Intentional Inference with Prospective Economic Advantage against Safeguard, SAI and Deluxe;
- **Count 11:** By Thurston: Breach of Contract (March 6, 2014 Protected Customer Transfer Agreement) against Safeguard;
- **Count 12:** By Thurston: Fraud in the Inducement.

Before the Court are four motions for summary judgment by the various parties. Thurston seeks summary judgment on Counts 1 and 11², Safeguard seeks summary judgment on Counts 2, 8, 11 and 12, and SAI and Deluxe each seek summary judgment on Counts 3, 4, 7 and 8. Additionally, Defendants collectively seek to strike the vast majority of declarations submitted by Roger Thurston on August 26 and September 9, 2016, Dawn Teply’s September 9, 2016 declaration, and Exhibit 112 from the September 9, 2016 declaration of Plaintiffs’ counsel, James Mulcahy.

Oral argument was held on the various motions on September 23, 2016 after which the Court took the matter under advisement.

¹ In their joint response to Defendants’ summary judgment motions, Plaintiffs agreed to voluntarily dismiss Counts 5, 6, 9 and 10.

² To the extent Thurston prevailed on its summary judgment motion, it sought an interim award of attorney fees. At the hearing, however, Thurston withdrew the request.

