

<b>Town New Dev. Sales &amp; Mktg. LLC v Price</b>
2015 NY Slip Op 03262
Decided on April 16, 2015
Appellate Division, First Department
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Decided on April 16, 2015

Acosta, J.P., Saxe, Moskowitz, Richter, Feinman, JJ.

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**[\*1] Town New Development Sales & Marketing LLC, et al., Plaintiffs-Respondents,**

**v**

**Charles Reid Price, Defendant-Appellant.**

Cole Hansen Chester LLP, New York (Michael S. Cole of counsel), for appellant.

Matalon Shweky Elman PLLC, New York (Joseph L. Matalon of counsel), for respondents.

Order, Supreme Court, New York County (Eileen Bransten, J.), entered August 29, 2014, which, inter alia, denied defendant's motion to amend his answer and to compel discovery, and granted plaintiff's cross motion to dismiss defendant's first counterclaim, unanimously affirmed, without costs.

Since the parties have a written, fully integrated agreement with a merger clause that covers defendant's compensation in detail, defendant cannot introduce parol evidence to prove a prior agreement with regard to his compensation ([\*see Schron v Troutman Sanders LLP\*, 20 NY3d 430, 436 \[2013\]](#)). Accordingly, the motion court properly dismissed the first counterclaim and the proposed amendment to that counterclaim. It also follows that defendant's motion to compel discovery in support of the first counterclaim was properly denied. In any event, the motion was defective, since it sought to compel the depositions of named employees of the corporate plaintiffs, without a showing that the corporate designee was not knowledgeable or did not possess all information (*see Defina v Brooklyn Union Gas Co.*, 217 AD2d 681 [2d Dept 1995]).

We have considered defendant's remaining contentions, including that the cross motion to dismiss was defective because it was not supported by an affidavit on personal knowledge, and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: APRIL 16, 2015

CLERK

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