

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-008702

01/09/2004

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
D. Whitford
Deputy

FILED: 01/14/2004

MONTANA DEL SOL CONDOMINIUM
ASSOCIATION

JOYCE J KAPSAL

v.

JWE SPRING OAKS LLC, et al.

JONATHAN C BURWOOD

JACK G BARONE
STEVEN R BARTELL
WILLIAM H DOUGLAS
ANDREW M FEDERHAR
DOUGLAS H FITCH
FREDERICK G GAMBLE
JOHN T GILBERT
BRIAN L HENRY
MICHAEL W HERZOG
JOSEPH A KULA
DAVID E MCDOWELL
ANDREW PESHEK
GREGORY A ROSENTHAL
JONATHAN D SCHNEIDER
GARY M SUNDBERG
MICHAEL WARZYNSKI
DAVID R GREEN
KATHERINE CORCORAN
JASON M KELLY
DREW M GULLY
ADAM B CAMPBELL
JOHN H CLINE
JULIE G OGAWA
M DUNCAN SCOTT
RINA K RAI
DOUGLAS A LUSSON

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**STATUS CONFERENCE
ORAL ARGUMENT/TRIAL/ STATUS & PRETRIAL CONFERENCE SET**

10:09 a.m. This is the time set for a Status Conference in a Civil Complex Case.

Appearances:

- Plaintiff Montana Del Sol Condominium Association is represented by counsel Joyce Kapsal and Douglas A. Lusson.
- Defendant JWE Spring Oaks, LLC. is represented by counsel Julia Ogawa and John Cline.
- Third-Party Defendant Hiltys International, Inc is represented by co-counsel Adam B. Campbell.
- Third-Party Defendant Rock Island Corporation d/b/a Jordan Window & Door. and Ace Masonry Company, Row and Bunch are represented by counsel Douglas H. Fitch.
- Third-Party Defendant Construction 70, Inc .is represented by counsel Andrew Peshek, co-counsel Third-Party Defendant Hart Plumbing of Arizona.
- Defendant Red Rock Curb, Inc., Third-Party Defendant Michie Concrete and Central Valley Specialities, Inc. are represented by counsel Rina Rai.
- Third Party Defendant Cohaco Building Specialists, Inc. is represented by counsel Joseph Kula, co-counsel for Third-Party Defendant Hart Plumbing of Texas.
- Third-Party Defendants Noel Corporation Plastering Stucco and Delta Plastering are represented by counsel William H. Douglas.
- Third Party Defendants Daniel Hempelman and Tiffany Hempelman and DHL Onsite, Inc. are represented by counsel Gary Sundberg.
- Defendant Creekstone Builders, Inc. is represented by counsel Katherine Corcoran, appearing for counsel David E. McDowell.
- Third-Party Defendant Rondo Pools, Inc. and Parra Drywall, Inc. is represented by counsel Jason Kelly.

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- Defendant United Floor Covering & Interiors is represented by counsel Drew M. Gully and David R. Green.
- Third-Party Defendant Hart Plumbing of Texas and Third-Party Defendant Cohaco Building Specialists, Inc. are represented by counsel Joseph A. Kula.
- Third-Party Catalina Roofing & Supply, Inc. is represented by counsel M. Duncan Scott, co-counsel for Third-Party Defendant Hilty's International, Inc. and for Third-Party Defendant United Subcontractors, Inc., d/b/a Mesa Insulation Specialists.
- Third-Party Defendant Ultra Installations, Inc. is represented by counsel Frederick G. Gamble.

The proceedings are recorded electronically by CD and videotape in lieu of a court reporter.

The case status is discussed.

Plaintiffs' counsel advises the Court that they have a settlement agreements with Third-Party Defendants Ace Masonry, Mercer & Mercer Heating & Cooling, Inc. and Ultra Insulation, Inc. The agreement also includes Third -Party Defendants Row and Bunch, which are part of Ace Masonry.

IT IS ORDERED waiving the complex-litigation fees for Third-Party Defendants Ace Masonry, Mercer & Mercer Heating & Cooling, Inc. and Ultra Insulation, Inc.

The Court will schedule the Motions to Dismiss for oral argument.

IT IS ORDERED that counsel Rena Rai has 7 days within which to file a joinder to a Motion to Dismiss.

Discussion ensues re: electronic filing and electronic discovery

Discussion ensues re: depositions. Plaintiffs' counsel advises the Court that there will be at least 30 expert depositions.

Discussion ensues re: exhibits. The clerk will assign counsel blocks of numbers for their exhibits. Counsel are provided with information re: electronic exhibits.

IT IS ORDERED adopting Rule 43(b) as it pertains to depositions as well as to trial.

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IT IS FURTHER ORDERED that expert witnesses be paid within 30 days from the date of receipt of the bill. All expert fees are to be paid by the party responsible. Counsel are to ensure that the bill goes to the correct party responsible for payment.

IT IS FURTHER ORDERED that no Motions for Summary Judgment shall be filed absent an order of the Court. This matter will be added to the agenda scheduled for **March 26, 2004**.

Discussion ensues re: changing the deadlines in the order issued by Judge Holt.

IT IS ORDERED extending the deadline for all site inspections from **March 19, 2004** to **April 16, 2004**, absent an order from the Court. Counsel are directed to confer and set up site inspections.

IT IS FURTHER ORDERED extending the deadline for identification of all non-expert witnesses from **December 31, 2003** to **November 19, 2004**.

The deadline for Defendants to deposit expert reports and cost of repair remains **April 30, 2004**.

The deadline for Third-Party Defendants to deposit expert reports and cost of repairs remains **June 14, 2004**.

IT IS FURTHER ORDERED setting a Pretrial Management/Status Conference and Oral Argument on the Motions to Dismiss and Defendant Parra Drywall, Inc.'s Motion for Summary Judgment for **March 26, 2004 at 1:30 p.m. (ALLOTED TIME: 1:30 p.m. to 5:00 p.m.)**

Counsel are directed to provide a 10-day notice to Court and counsel of any items counsel would like the Court to add to the agenda of the conference.

Discussion ensues re: contact or liaison person for third-party defendants. The parties will designate a primary responsible/knowledgeable person for each party by the status conference on **March 26, 2004**. Counsel Rena Rai and Duncan Scott volunteer to be the liaisons for Third-Party Defendants' counsel. Both defendants' counsel will participate.

Counsel are directed to provide proposed form of interrogatory at the status conference on **March 26, 2004**.

Counsel are to be prepared to discuss the status of site inspections at the status conference on **March 26, 2004**.

IT IS ORDERED that all initial Rule 26.1 disclosure be completed by January 30, 2004 unless counsel receive leave of the Court.

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Those parties who haven't settled are to be prepared to discuss deposition schedules at the status conference.

Alternative Dispute Resolution is scheduled for February 2004. The carriers must have knowledgeable person with authority to settle the case present in person or, with prior permission, available telephonically on the same time schedule as the mediation.

IT IS ORDERED setting a firm jury trial for **February 23, 2005, at 9:00 a.m.**
(ALLOTTED TIME: 5 weeks) Trial schedule: Jury Selection on Wednesday; Trial schedule: Tuesdays through Fridays.

Before:

The Honorable Kenneth Fields
Maricopa County Superior Court
East Court Building
Courtroom 414
Phoenix, AZ 85003
PHONE: 602-506-2060

11:05 a.m. Status Conference concludes.

ELECTRONIC ("E") COURTROOM

A record of the proceedings may be made by videotape in lieu of a court reporter. Should an official transcript be required, you may request that the Court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the Court's video-recording system before requesting a court reporter.

If a court reporter is required, a written request must be received by the Court at least 48 hours before the hearing.

NOTICE

New Fee for Copies of Electronically Recorded Proceedings

Effective Monday, January 27, 2003, a fee of \$20.00 will be charged for each copy of superior court proceedings digitally recorded and provided on compact Disc (CD) and for each copy of a superior court proceeding provided on videotape. The fee is due when the CD or videotape is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable to: Clerk of the Superior Court.

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Blank, unused CDs and videotapes will not be accepted in lieu of payment.

Beginning Monday, January 27, 2003, the pick up location for CD or videotape copies of superior court proceedings recorded in downtown Phoenix will be the court's Self Service Center located in the Law Library on the first floor of the East Court Building. Fees will be collected at the Self Service Center. Copies of superior court proceedings recorded at the court's Southeast Facility in Mesa and at the court's Northwest Facility in Surprise may be picked up, and fees paid, at the Self Service Centers at those locations.

Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, 602-506-7100 or kcrensa@superiorcourt.maricopa.gov

Request for Daily Copy of Electronically Recorded Proceedings

Obtain a form from the courtroom clerk or from the Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee at the Self Service Center. Attach the receipt showing payment of fee and present both the receipt and the form to the courtroom clerk or bailiff. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.