

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-000707

01/04/2012

HONORABLE MARIA DEL MAR VERDIN

CLERK OF THE COURT
L. Firriello
Deputy

MARKHAM CONTRACTING CO INC

KAREN A PALECEK

v.

PINNACLE POINT DEVELOPERS L L C, et al.

DANIEL E FREDENBERG

JURY TRIAL SET

9:27 a.m. This is the time set for Telephonic Status Conference. Plaintiff Mike Markham is present and represented by counsel, Karen A. Palacek. Defendants First Arizona Savings and Loan Association and Primeaz/Libra LLC are represented by counsel, Daniel E. Fredenberg. All parties appear telephonically.

Court Reporter, Hilda Lopez, is present.

Status of the case is discussed. Court is advised that a settlement conference was unsuccessful and counsel request that this matter be set for trial.

IT IS ORDERED as follows:

1. Setting a **Trial Management Conference** for **May 14, 2012 at 9:30 a.m. (1 hour)** in this division. All counsel must appear in person and cannot appear telephonically.
2. Setting a **Four (4) Day Jury Trial** for **June 4, 2012 at 9:30 a.m. Said trial shall continue on June 5, 6 and 7, 2012 beginning each day at 9:30 a.m.**

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Before:

**THE HONORABLE MARIA DEL MAR VERDIN
MARICOPA COUNTY SUPERIOR COURT
OLD COURTHOUSE
125 WEST WASHINGTON
3RD FLOOR, COURTROOM 303
PHOENIX, AZ 85003
602-506-2603 TEL**

DUTIES PRIOR TO THE TRIAL MANAGEMENT CONFERENCE

3. **MOTIONS IN *LIMINE*.** All Motions in *Limine* shall be filed no later than **5:00 p.m. on April 24, 2012**, and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397; 499 P.2d 152 (1972): The primary purpose of a Motion in *Limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial. See also, Ariz. R. Evid. 103(c). A written response to a Motion in *Limine* may be filed no later than ten (10) calendar days thereafter. The Court may rule on Motions in *Limine* without oral argument. No replies shall be filed. The parties must comply with Rule 7.2(a) Ariz.R.Civ.P., prior to filing any Motion in *Limine*. Any motion in *limine* filed without the movant having first complied with Rule 7.2(a), will be stricken by the Court.
4. **JOINT PRETRIAL STATEMENT.** Counsel shall file with the Court no later than **5:00 p.m. on May 7, 2012**, a **Joint Pretrial Statement** signed by all counsel.
 - a) **Deposition Summary:** In addition to the information required by Rule 16(d), counsel shall at the Trial Management Conference provide to the Court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.
 - b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the Joint Pretrial Statement shall include an exhibit titled: **Final**

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Trial Witness List. This list shall contain the name of each witness a party actually intends to call at trial, the day on which they intend to call each witness and the estimated time needed for direct, cross and re-direct examination.

5. **JURY INSTRUCTIONS; VOIR DIRE QUESTIONS.** Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall file with the Court, with their Joint Pretrial Statement, copies of:
- a) Proposed *voir dire* questions.
 - b) A joint set of agreed-upon preliminary and final jury instructions and **proposed forms of verdicts.**
 - c) Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329; 85 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

Recommended Arizona Jury Instructions (RAJI) need not be typed and may be requested in the following manner: RAJI 3d Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed. Each instruction should cover only one subject.

Any jury instructions not filed with the Court together with the Joint Pretrial Statement will be deemed waived by the Court, unless the Court concludes that good cause exists for the untimely submission.

DUTIES AT TRIAL MANAGEMENT CONFERENCE

6. At the Trial Management Conference, counsel shall be prepared to discuss:
- a) Time limits in *voir dire*, opening statements, examination of witnesses and closing arguments.
 - b) Stipulations for the foundation and authenticity of exhibits.
 - c) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and *voir dire*.

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- d) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 - e) Use of short-trial or summary jury trial.
 - f) Any special scheduling or equipment issues.
7. Counsel shall call the division clerk at 602-506-3813 at least **two (2) weeks** before trial to make arrangements for delivering exhibits. The exhibits will be marked serially as they are listed in the Joint Pretrial Statement – Plaintiff's first, Defendant's second. Counsel shall meet and confer to eliminate any duplicate exhibits.
 8. One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(c), Ariz.R.Civ.P.
 9. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

9:33 a.m. Matter concludes.

Court Reporter

The proceeding will take place in the Superior Court's "e-courtroom." A record of the proceedings will be made by videotape and CD in lieu of a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a videotape or CD of the proceedings for a \$20.00 charge. If a CD or videotape is requested, please obtain a form from the Self 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 the 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.** Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.

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If a court reporter is required, the Court must receive a written request at least 48 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.