

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-010588

01/06/2014

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT
S. Heras/R. Tomlinson
Deputy

SUN GROVES HOMEOWNERS
ASSOCIATION, THE

LINDSEY O STEARNS

v.

MICHAEL ROBERTS

J ROGER WOOD

TRIAL SETTING MINUTE ENTRY

East Court Building - Courtroom 513

10:01 a.m. This is the time set for Order to Show Cause Hearing. Present on behalf of the Plaintiff is counsel, Lindsey O. Stearns. Present on behalf of the Defendant are counsel, James Roger Wood and Eden Mara Brown.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Court and counsel discuss the status of the case and scheduling matters. Counsel agree to consolidate the preliminary injunction hearing with the trial on the merits. Therefore,

IT IS ORDERED setting a **Half-Day** Trial to the Court on **April 24, 2014 at 9:00 a.m.**
before:

**THE HONORABLE DOUGLAS GERLACH
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING**

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**101 W. JEFFERSON
5TH FLOOR, COURTROOM 513
PHOENIX, AZ 85003
PHONE: 602-372-5851**

THIS IS A FIRM TRIAL SETTING.

IT IS FURTHER ORDERED all trial exhibits shall be submitted for marking not later than **April 17, 2014**. Counsel shall submit two sets of their exhibits, one for marking and one for the bench, following the procedures for preparing the exhibits for marking attached hereto. The bench copy shall be submitted in a binder(s).

No information disclosed after the dates contained in the order may be used at the trial absent court order on motion and affidavit.

IT IS ORDERED that should any discovery disputes arise, prior to filing discovery motions, counsel shall **MEET AND CONFER FACE TO FACE**. If counsel are not able to resolve the dispute,

IT IS FURTHER ORDERED that any discovery motion must be accompanied by a Rule 37(2)(C) certification, to include that counsel have met face to face.

The proceedings will take place in the Superior Court's new "e-courtroom." A record of the proceedings will be made by FTR in lieu of a court reporter. With this new technology, a court reporter is 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, the Court must receive a written request three (3) days prior to trial. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$20.00 charge. If a CD is requested, please obtain a form from the Self Center to request a daily copy of a court hearing or trial proceeding being conducted and pay the applicable fee. Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it.

If the parties are not familiar with the courtroom's technology, they are encouraged to set up an appointment with the court's technology liaison at 602.372.1059.

10:08 a.m. Matter concludes.

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PRETRIAL MANAGEMENT ORDERS

IT IS ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ.P., is due in this division by **5:00 p.m. April 19, 2014**,

IT IS FURTHER ORDERED with the JPTS, counsel shall deliver to this division, copies of the following:

- A. A jointly completed time and witness estimate list.
- B. Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.
- C. Whether or not the Rule of Exclusion of Witnesses has been invoked.

DISPOSITIVE MOTIONS

All motions, other than motions in limine, shall be filed not later than ninety (90) days prior to the date set for trial.

Notices of Settlement

In accordance with the provisions of ARCP 41(a), to be effective, any Notice of Settlement or Dismissal providing for resolution of one or more pending claims that is filed after service by the opposing party's answer or dispositive motion, must be signed by each affected party (or appropriate counsel) prosecuting or defending against the claim(s) covered by the Notice. Each filed Notice shall state whether it resolves all pending issues in the case and constitutes a representation to the Court that the claims subject to the Notice have been fully resolved with respect to Notice signatories, and that the only further relief to be sought with respect to such claims is entry of an order that each signatory confirms is consistent with the agreement that gave rise to filing of the Notice.

ATTACHED: SAMPLE FORMAT FOR TIME ESTIMATE FORM AND EXHIBIT PROCEDURES

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CAUSE NUMBER

CASE CAPTION

PLAINTIFF'S COUNSEL

DEFENDANT'S COUNSEL

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

| | |
|-------------------------------|--|
| PLAINTIFF'S OPENING STATEMENT | |
| DEFENDANT'S OPENING | |
| PLAINTIFF'S CLOSING | |
| DEFENDANT'S CLOSING | |
| PLAINTIFF'S REBUTTAL | |

Estimate of Time for Witness Examination

| PLAINTIFF'S WITNESSES | DIRECT EXAMINATION | CROSS EXAMINATION | REDIRECT EXAMINATION |
|-----------------------|--------------------|-------------------|----------------------|
| | | | |
| | | | |
| | | | |

Estimate of Time for Witness Examination

| DEFENDANT'S WITNESSES | DIRECT EXAMINATION | CROSS EXAMINATION | REDIRECT EXAMINATION |
|-----------------------|--------------------|-------------------|----------------------|
| | | | |
| | | | |
| | | | |

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

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Counsel for Plaintiff

Counsel for Defendant

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GUIDELINES FOR COUNSEL WHEN PREPARING **EXHIBITS** FOR USE IN COURT

COUNSEL PLEASE READ

Exhibits are due to the Court not later than five (5) business days prior to the trial.

Counsel shall submit two sets of their exhibits, one for marking and one for the bench. The bench copy shall be submitted in a binder(s) with number tab dividers.

Exhibits will be marked consecutively. If your list refers to an exhibit and it is not provided at the time of marking, the numbers of all following exhibits will be moved up. In addition, if duplicate exhibits are submitted, the clerk will remove the duplicate and the numbering will be adjusted accordingly. To avoid confusion during trial, it is essential that counsel avoid submitting duplicate exhibits. *The clerk cannot reserve numbers for exhibits that will be provided at a later date.* Exhibits will be marked as they are received. If Defendant's exhibits are received prior to Plaintiff's exhibits, the Clerk may mark them first with Plaintiff's exhibits following. Do not list "Any and all exhibits listed by" Depositions will not be marked as an exhibit. Original depositions to be used for impeachment purposes shall be provided to the clerk on the first day of trial to be hand-filed by the clerk.

Counsel are to provide a workable list of exhibits. The list should include a description of each exhibit. (See blank sample of an exhibit table below as a reference.) Do not put numbers on the exhibits; however **a COLORED slip sheet with the exhibit number on it should be placed in front of each exhibit.**

******Each multiple page exhibit must be securely fastened together by staple or other means. NO PAPER CLIPS, BINDER CLIPS, OR RUBBER BANDS may be used. If Acco fasteners are used they must be long enough to fasten securely.******

Exhibit Description Information:

The descriptions should be verifiable when viewing the first page of the exhibit.

No bates stamp references or number of pages in documents should be used.

If counsel are submitting large charts, blow-ups or maps, please include a small version which can be marked as the exhibit and can go into the jury if in evidence. The blow-ups, charts and/or maps can be used as demonstrative but will not be marked as exhibits and will be returned to counsel.

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For additional assistance in preparation of exhibits contact the courtroom clerk at 602-506-8145.

Sample of List of Exhibits to be provided to the courtroom clerk:

| EXHIBIT LIST | | | |
|--------------|---------------|-------------|----------------------------|
| Exhibit No. | Identified By | Description | Legal Ground for Objection |
| | | | |
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ALERT: The Arizona Supreme Court Administrative Order 2011-140 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.