

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-007263

01/15/2016

HON. RANDALL H. WARNER

CLERK OF THE COURT  
K. Ballard  
Deputy

JEFFREY SALLUS, et al.

JAMES ROBERT ECKLEY

v.

SUNRISE DESERT VISTAS PROPERTY  
OWNERS ASSOCIATION INC, et al.

GUY W BLUFF

LARRY D LANGLEY

TRIAL MANAGEMENT CONFERENCE

**Courtroom: ECB-512**

9:00 a.m. This is the time set for a trial management conference. Plaintiff Jeffrey Sallus is present and represented by Counsel John Harris (appearing in place of James Robert Eckley), who also represents Plaintiff Suzanne Sallus. Defendants Sunrise Desert Vistas Property Owners Association, Inc.; Grace Violette; Bernard Potof; Liz Potof; Joyce Strole; Ron Strole; Ronald Holewinski; and Rosie Holewinski are represented by Counsel Larry D. Langley.

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

Defendants' December 28, 2015 Motion to Bifurcate/Sever Plaintiffs' Count for Injunctive Relief and the claims being asserted in this case are discussed.

**IT IS ORDERED** denying the Motion to Bifurcate/Sever.

The court will resolve all equitable claims after trial based on the evidence heard during the jury trial. Whether additional evidence is necessary after the jury is discharged will be discussed at a later time.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-007263

01/15/2016

The court addresses counsel regarding the forms of verdict in this case.

This matter is set for 8 trial days beginning on February 22, 2016.

Trial hours and days are normally 9:30 a.m. to 4:30 p.m. (with a lunch recess from noon to 1:30 p.m. and two 15-minute recesses, daily), Monday through Thursday.

The court will allocate trial time in this matter. Each side will be allotted **14 hours**. This time includes the counsel's individual voir dire, opening statements, closing arguments, and any time spent examining witnesses.

The parties are to have witnesses prepared and ready to testify at all times during the trial so that the jury's time is used efficiently.

The electronic equipment available in the courtroom is reviewed.

The Rule of Exclusion of Witnesses is invoked by both sides.

Defendants request the presence of a court reporter for the trial.

**NOTE:** All court proceedings are recorded by audio and video method and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

The jury will consist of 8 jurors and 2 alternates for a total of 10 jurors. The alternates will be selected by lot at the appropriate time unless the parties reach an agreement to allow them to deliberate. An agreement of 6 of the remaining 8 jurors will be necessary to return a verdict.

The voir dire process is briefly reviewed.

Counsel are advised that objections to exhibits will be resolved during the course of trial. Additionally, admission of exhibits, whether through stipulation or for lack of preserving an objection in the Joint Pretrial Statement, will also be addressed during the trial.

The deadline for delivery of trial exhibits to the courtroom clerk is affirmed: **February 1, 2016**. This is a firm deadline.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-007263

01/15/2016

The use of juror notebooks is addressed.

With regard to deposition designation objections, the court will resolve them at trial as follows. By 4:30 p.m. the day before a party plans to read deposition testimony, that party shall provide the court with a hard copy of the deposition transcript with the designated portions highlighted in one color, cross-designations highlighted in another color, and the objections written in the margins. The court will rule on any objections by the next day.

The court will provide counsel a draft set of preliminary jury instructions the first morning of trial. Any objections will be resolved prior to presentation to the jury. The final jury instructions will be resolved during the course of trial.

Counsel may file any trial memoranda they deem appropriate in support of Rule 50 motions, complex jury issues or other legal issues.

The court will draft a summary of the case for jury selection based on the parties' separate proposals.

With regard to Defendants' pending motions in limine, the court rules as follows.

All denials are without prejudice to trial objections.

- Defendants' Motion in Limine Number One to Exclude Evidence of the Propriety of the Recall Voting Wherein Suzanne Sallus was Removed from Board of Directors of SDVPOA is **GRANTED** based on relevance and Rule 403.
- Defendants' Motion in Limine Number Two to Exclude Evidence/Argument Re: Parties' Injunctions & Jeff Sallus' Subsequent Arrest is **DENIED**.
- Defendants' Motion in Limine Number Four to Exclude Evidence of No Reserve Fund is **GRANTED** based on relevance and Rule 403.
- Defendants' Motion in Limine Number Five to Exclude Allegations/Evidence of Use of Unlicensed Contractors & Failure to Grade Roads Between May 2011 Through April 2012 is **GRANTED** based on relevance and Rule 403.
- Defendants' Motion in Limine Number Six to Exclude Alleged Statement of Grace Violette to Prior Attorney for Plaintiffs in Different Case is **GRANTED** based on hearsay.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-007263

01/15/2016

- Defendants' Motion in Limine Number Seven to Exclude Evidence of Grace Violette's Alleged Violation of CC&R #10 Requiring 2000 Square Feet of Living Area is **DENIED**.
- Defendants' Motion in Limine Number Eight to Exclude Evidence/Argument Re: Defendants' Alleged Failure to Disclose Financial Condition to Plaintiffs Prior to April 2, 2011, and Defendants' Other Lawsuits is **GRANTED** based on relevance and Rule 403.
- Defendants' Motion in Limine Nine to Exclude Evidence/Argument that Board is Obligated to Enforce CC&Rs is **DENIED**.
- Defendants' Motion in Limine Number Ten to Exclude Evidence/Argument Re: Statements Allegedly Made by Defendants to Plaintiffs' Unidentified Neighbors is **DENIED**.
- Defendants' Motion in Limine Number Eleven to Exclude Evidence/Argument Re: Plaintiffs' Allegation that Ron Holewinski Wrongfully Removed Disclaimer on Road Permit is **DENIED**.
- Defendants' Motion in Limine Number Twelve to Exclude Evidence/Argument Re: Mailing Mugshot by Unknown Individual to Plaintiff's Employer is **DENIED**.
- Defendants' Motion in Limine Number Thirteen to Exclude Evidence/Argument Re: Plaintiffs' Allegations Re: Reports to Building Department is **DENIED**.
- Defendants' Motion in Limine Number Fourteen to Exclude Evidence/Argument Re: Defendants' Alleged Misuse of Association E-Mail is **DENIED**.
- Defendants' Motion in Limine Number Fifteen to Exclude Evidence/Argument Re: Defendants' Alleged Unfounded Reports to Animal Control & Maricopa County Planning & Development is **DENIED**.
- Defendants' Motion in Limine Number Sixteen to Exclude Evidence/Argument Re: Defendants' Alleged Misuse of Cameras is **DENIED**.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-007263

01/15/2016

- Defendants' Motion in Limine Number Seventeen to Exclude Evidence/Argument Re: Defendants' Alleged Mismanagement of Road Maintenance is **GRANTED** based on relevance and Rule 403.
- Defendants' Motion in Limine Eighteen to Exclude Evidence/Argument Re: Health Issues of Jeffrey Sallus is **DENIED**.

Discussion is held regarding Defendants' Motion in Limine Number Three to Exclude Evidence of the Potential Resale and Diminished Value of Plaintiffs' Home.

**IT IS ORDERED** granting the Motion in part. The court will allow Plaintiffs to testify that they believe any number of circumstances affects the value of their home; however, the court will not allow Plaintiffs to testify as to a specific dollar amount.

Plaintiffs' Motions in Limine are discussed. The court rules as follows.

- **DENYING** Motion in Limine No. 1 as to Defendants' 5<sup>th</sup> Supplemental Disclosure Statement for the reasons stated in the response. Further, the court finds that the timing of the disclosure is harmless and that some of the items could not have been disclosed earlier.
- **DENYING** Motion in Limine No. 2 as to Defendants' 6<sup>th</sup> Supplemental Disclosure Statement. Counsel are advised to have disclosure statements readily available during the trial to resolve disclosure objections.
- **DENYING** Motion in Limine No. 3 as to Defendants' 7<sup>th</sup> Supplemental Disclosure Statement on the basis that the late disclosure is harmless.

The court briefly addresses counsel regarding settlement negotiations.

9:50 a.m. Matter concludes.