

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-053091

01/15/2016

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
W. Tenoever
Deputy

R L WHITMER, et al.

ROBERT S PORTER

v.

HILTON CASITAS COUNCIL OF CO-
OWNERS, et al.

ANDREW M FEDERHAR
R COREY HILL

**ORAL ARGUMENT
PRETRIAL CONFERENCE**

Courtroom 102 – NE

1:58 p.m. This is the time set for oral argument on Plaintiff's Motion for New Trial and Final Trial Management Conference in CV2012-051066 and on Plaintiff's Motion for Evidentiary Hearing and Defendant's Motion to Dismiss in CV2015-053091. Present on behalf of Plaintiffs in both cases is counsel, Robert S. Porter. Defendant Procaccianti AZ, II, LLP is represented by counsel, Andrew M. Federhar. Defendant Hilton Casitas Council of Co-Owners is represented by counsel, R. Corey Hill.

Court Reporter, Marla Arnold, is present as well as a record of the proceedings being made by audio and/or videotape.

As to CV2012-051066,

Oral argument on Plaintiff's Motion for New Trial is presented.

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IT IS ORDERED the motion for new trial is denied.

2:53 p.m. Court stands at recess.

3:06 p.m. Court reconvenes with respective parties and counsel present.

Court Reporter, Marla Arnold, is present as well as a record of the proceedings being made by audio and/or videotape.

As to CV2015-053091,

Oral argument on Defendant's Motion to Dismiss and Plaintiff's Motion for Evidentiary Hearing is presented.

IT IS ORDERED the motion to dismiss is granted.

IT IS FURTHER ORDERED the request for evidentiary hearing on receivership application is denied.

The Court finds in favor of defendants Procaccianti and Hilton Casitas on the receivership application.

Counsel for the defendants shall submit a proposed form of order consistent with today's decision along with any application for fees and costs that may be appropriate within thirty days after the end of the upcoming trial in CV2012-051066. Mr. Porter will have twenty days thereafter to file a response.

3:45 p.m. The parties in CV2015-053091 are excused at this time.

Final pretrial conference is held in CV2012-051066.

Discussion is held regarding the claims and defenses remaining in the case.

Trial to a Jury is confirmed for: **February 1, 2016 at 9:00 a.m.** The estimated length of trial is: 4 days. Trial hours are as follows: 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m. each day.

Trial protocol is discussed.

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Counsel agree that the jury in this case will consist of eight jurors plus one alternate juror. Six of the eight jurors will be necessary to return a verdict in this case. The alternate juror will not deliberate.

The Court will conduct standard voir dire. Counsel may anticipate 15-20 minutes of follow-up questioning.

The Court uses the struck method for jury selection.

Each side will have five peremptory strikes.

Let the record reflect that both sides were provided copies of the Court's standard preliminary jury instructions and voir dire script for review.

The Rule of Exclusion of Witnesses will be invoked.

IT IS ORDERED that not later than January 25, 2016, the parties shall arrange for the Court to have a copy of the Karatz deposition so that the Court can make rulings in advance of the trial.

Let the record reflect that the parties have been working with copies of the original transcript. As long as there is no dispute over the authenticity of the copy and both parties are in agreement that whatever is submitted to the Court is appropriate to be used in the trial, the Court is fine with that.

IT IS ORDERED the defendant's objection to the plaintiff presenting Mr. Blass's deposition testimony in the case in chief is overruled.

IT IS FURTHER ORDERED that with respect to any exhibit that counsel wish to present to the jury in opening, either the parties are to have an agreement in advance that the exhibit is admitted or the issue shall be brought to the Court's attention on the morning that the trial starts.

IT IS FURTHER ORDERED affirming the Court's previous order that all trial exhibits shall be delivered to this division's clerk no later than 5:00 p.m. on January 25, 2016.

Pursuant to stipulation of counsel, opening statements will be limited to one hour each and closing arguments will be limited to ninety minutes each.

Discussion is held regarding jury selection, bench conferences, offers of proof, examination of witnesses, making objections, and questions from the jury.

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With respect to disclosure objections, counsel should be prepared to show the Court any pertinent correspondence concerning disclosures and discovery.

Let the record reflect that defense counsel is requesting a court reporter at trial.

IT IS ORDERED setting Oral Argument on Motions in Limine on **January 27, 2016 at 9:00 a.m.** (90 minutes allotted) in this division.

IT IS FURTHER ORDERED that any trial memoranda are due not later than January 26, 2016.

4:58 p.m. Hearing concludes.