

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-004103

01/09/2018

HONORABLE KERSTIN LEMAIRE

CLERK OF THE COURT
D. Charbagi
Deputy

ANGELA C WINIUS

TIMOTHY J CASEY

v.

A A M, L L C, et al.

LYNN M ALLEN

GARY L HUDSON JR.
CUSTODIAN OF RECORDS INSIGHT
IMAGING BILTMORE
2141 E CAMELBACK RD STE
110
PHOENIX AZ 85016
CUSTODIAN OF RECORDS PHOENIX
NEUROLOGICAL ASSOCIATES
5090 N 40TH ST STE 250
PHOENIX AZ 85018
MARC D BLEAMAN

MINUTE ENTRY

Courtroom 711 (ECB)

9:13 a.m. This is the time set for Telephonic Pretrial Trial Setting Conference. Plaintiff, Angela C. Winius is represented by counsel, Timothy J. Casey. Defendant, AAM, LLC is represented by counsel, Lynn M. Allen. Defendant, R&R Property Management, LLC is represented by counsel, Gary L. Hudson. Defendant, Scottsdale Casitas Condominium Association, Inc. is represented by counsel, Marc D. Bleamon. All parties appear telephonically.

A record of the proceeding is made digitally in lieu of a court reporter.

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Discussion is held regarding the status of the case. Plaintiff's counsel has informed the Court of their intent to file a Motion to Withdraw regarding Plaintiff's Motion for Partial Summary Judgment Re: Defendants' claim that the Non-Party Pigeon Control Vendors are at fault filed October 26, 2017. Plaintiff's counsel has also informed the Court of their intent to file a withdrawal in regards to Plaintiff's application for Order to Show Cause Re: Custodian of Records Deposition and Rule 30(b)(6), A.R.C.P videotaped oral deposition, as the parties are working on a resolution.

Based on the matter presented,

IT IS ORDERED vacating the Order to Show Cause Return Hearing already set on **January 18, 2018, at 10:00 a.m.**, as the Court anticipates Plaintiff's to file a withdrawal.

IT IS FURTHER ORDERED setting Oral Argument on **February 16, 2018, at 1:30 p.m. (time allotted: 30 minutes)** regarding Plaintiff's Motion for Partial Summary Judgment Re: Defendant Scottsdale Casitas Condominium Association, Inc.'s Non-Delegable Duty filed October 26, 2017. Counsel and the parties, if representing themselves, are to appear in person before:

**THE HONORABLE KERSTIN LEMAIRE
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
7TH FLOOR, COURTROOM 711
PHOENIX, AZ 85003
PHONE: 602-506-8245**

IT IS FURTHER ORDERED as follows:

1. Setting a Trial Management Conference on **November 30, 2018, at 1:30 p.m. (time allotted: 2 hours)**. Lead counsel for all parties must appear in person and cannot appear telephonically.
2. Setting Trial to a Jury on **January 7, 2019 at 9:00 a.m. for jury selection. The remaining days of trial, January 8-10, January 14-17, and January 22-23, 2019, will begin at 9:30 a.m. (time allotted: 10 days)** in this division. PLEASE NOTE: Trial will not proceed on Fridays as Friday is Law and Motion day for this division.

3.

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**THE HONORABLE KERSTIN LEMAIRE
MARICOPA COUNTY SUPERIOR COURT
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101 W JEFFERSON
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PHONE: 602-506-8245**

Duties Prior to Trial

4. Dispositive Motions: All dispositive motions, including Rule 56 motions, shall be filed no later than **July 7, 2018**.
5. Motions in Limine: All Motions in Limine shall be filed no later than **November 9, 2018**, and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397; 499 P.2d 153 (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(d). A written response to a Motion in Limine may be filed no later than **November 24, 2018**. 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.

PLEASE NOTE: This division requires that all motions, responses, replies and other Court requested filings in this case must be submitted individually. Counsel shall not combine any motion with a responsive pleading. All motions are to be filed separately and designated as such. No pleadings will be accepted if filed in combination with another. The motions in Limine shall not exceed three pages in length and responses to motions in Limine shall not exceed two pages.

6. Joint Pretrial Statement: Counsel shall file, no later than **November 20, 2018**, a Joint Pretrial Statement signed by all counsel. In addition to the information required by Rule 16, the Joint Pretrial Statement shall include,
 - a) A Final 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** (see Witness Information Form attached).

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- b) An agreed upon number of jurors to be seated as the final panel including any alternates, whether or not the alternates will deliberate, and an agreed upon verdict ratio in accordance with the number of jurors deliberating.
 - c) Whether or not the Rule of Exclusion of Witnesses is being invoked.
7. Jury Instructions and Voir Dire Questions: Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall file with their Joint Pretrial Statement (**counsel shall provide a copy of the jury instructions in Word format, either by delivering a USB drive to the division or by e-mail to the division's Judicial Assistant before or at the Final Pretrial Management at smithj025@superiorcourt.maricopa.gov**):
- 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.
 - d) Standard Arizona Jury Instructions (RAJI) requests exactly as written may be requested by listing the number and title of the instruction. If any modifications, including the parties names, are made to the requested instruction, counsel shall provide the modified instruction by e-mail in Word format to the division's Judicial Assistant (smithj025@superiorcourt.maricopa.gov). Each instruction should cover only one subject and placed in order.

Duties at Trial Management Conference

8. Counsel shall be prepared to argue Motions in Limine if the Court deems necessary. Counsel shall also be prepared to discuss:
- a) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
 - b) Preliminary jury instructions, mini opening statements and voir dire.

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- c) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
- d) Any special scheduling or equipment issues.

Exhibits

9. Counsel (and any self-represented party) shall **deliver all trial exhibits to the courtroom clerk no later than 3:00 p.m. on December 17, 2018 (any deviation from this date *must* be approved by the division)**. For any questions you may contact the Clerk at 602-506-1470 or charbagid@cosc.maricopa.gov.
- a) 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. A list with a generic description of each exhibit should be provided. The list should contain the case number, the caption, scheduled trial date and the party submitting the exhibits.
 - b) Exhibits will be marked in numerical order per party, making it necessary to mark all of one party's exhibits before marking the other party's. Defendant's exhibits numbering shall start at the next number following the last of Plaintiff's exhibits. If your list refers to an exhibit and it is not provided at the time of marking, the numbers of all the following exhibits will be moved up. *The clerk cannot reserve numbers for exhibits that will be provided at a later date.* Exhibits will be marked as they are received. If Defendants exhibits are received prior to Plaintiff's exhibits, the Clerk may mark them first with Plaintiff's following.
 - c) The parties are directed to exchange the exhibits before submitting to the court, and to the extent possible, remove any duplicate exhibits. If duplicate exhibits are submitted, the clerk will remove the duplicates and the numbering will be adjusted accordingly. To avoid confusion during trial, it is essential that counsel avoid submitting duplicate exhibits. If counsel stipulate to any exhibits being received in evidence, counsel shall provide a signed stipulation as to said exhibits (**lack of objection to an exhibit in the Joint Pretrial Statement is not taken to signify that the exhibit is automatically received in evidence**).

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- d) Each exhibit shall be stapled. If an exhibit is too large to be stapled, that exhibit shall be **securely fastened in order to prevent page separation during witness/jury review. (Note: black binder clips are NOT considered securely fastened. I suggest you use the silver two-prong fasteners).**
 - e) Exhibits should be separated by a colored sheet of paper or a tabbed divider sheet. The colored sheet or tabbed divider shall reflect the number of the exhibit and should be placed on top of the exhibit.
 - f) Counsel are strongly discouraged from marking exhibits they do not anticipate using during trial. Counsel shall only submit those exhibits to the Clerk they know will actually be used during trial. If counsel wish a document to be used during the course of trial, that document can be marked as an exhibit at that time.
 - g) If photographs are submitted for marking, each photograph must be marked as an individual exhibit unless counsel have stipulated to a set of photographs being submitted into evidence.
 - h) Blow-ups and large items may only be used for demonstrative purposes. You may bring them to court to use during trial; however, if you would like them to be marked as an exhibit, **you must submit** a smaller 8 ½ x 11 version of the item.
 - i) Depositions will NOT be marked as exhibits. If you plan to read from a deposition or use the deposition for impeachment purposes, you will need to supply an ORIGINAL to the courtroom clerk for filing. Copies will not be filed with the clerk.
10. 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 5.3(d), Ariz.R.Civ.P.
11. 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.

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The trial will take place in the Superior Court's "e-courtroom." A record of the proceedings will be made by audio and CD in lieu of 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 \$30.00 charge. If a CD is requested, please 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 the fee and present both the receipt and the form to the 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.

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.

9:28 a.m. Matter concludes.

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WITNESS INFORMATION FORM

Please note that there are approximately 5 hours of trial time per day excluding two 15-minute breaks and 1½ hours for lunch. It generally takes a half day to select a jury unless it's a much longer trial.

VOIR DIRE EXAMINATION

TIME ESTIMATE FOR:	
PLAINTIFF(S) VOIR DIRE	
DEFENDANT(S) VOIR DIRE	

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

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WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF		DEFENDANT
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	

TOTAL ESTIMATED TRIAL TIME: * days

Estimate should not exceed * total hours (number of trial days x 5)