

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-018615

01/21/2022

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT
P. McKinley
Deputy

CIMARRON HILLS AT MCDOWELL
MOUNTAIN HOMEOWNERS ASSOCIATION

MARK K SAHL

v.

MICHELLE FORD

KEVIN R HARPER

HENRY NICKOLAS EICHER
JUDGE MAHONEY

EVIDENTIARY HEARING SET

East Court Building – Courtroom 411

10:19 a.m. This is the time set for a virtual Order To Show Cause Return Hearing on Plaintiff's Request For Preliminary and Permanent Injunctions, filed 12/8/21. Plaintiff is represented by Counsel Mark K. Sahl and Henry Nicholas Eicher. Defendant is represented by Counsel Kevin Harper. All appearances are virtual and/or telephonic via Court Connect/Microsoft Teams.

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

Mr. Harper advises the Court that he is representing the Defendant Michelle Ford and that he filed her Answer and Counterclaim yesterday, 1/20/22, a copy of which was emailed to Court staff just minutes ago. Plaintiff's counsel confirm that they have received and reviewed Defendant's Answer and Counterclaim.

Discussion is held as to the claims set forth in Defendant's Counterclaim.

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The Court has reviewed Plaintiff's Verified Complaint, filed 12/7/21, and Plaintiff's Request for Preliminary And Permanent Injunctions, filed 12/8/21.

Mr. Harper informs the Court that counsel have conferred and have reached agreement on how to proceed with this litigation. The Court inquires if counsel have discussed settlement. Mr. Stahl informs the Court that the parties and counsel are involved in settlement negotiations. Mr. Stahl states that he and defense counsel are requesting an Evidentiary Hearing consolidated with Trial on the Merits in approximately 120 days. The Court urges counsel to continue settlement discussions.

Discussion is held regarding setting an Evidentiary Hearing/Trial on the merits.

IT IS ORDERED setting an Evidentiary Hearing consolidated with Trial on the Merits on **6/1/22 at 9:00 a.m. (time allotted: 6 hours to be divided equally between the parties)** before:

Honorable Margaret R. Mahoney
East Court Building
101 West Jefferson, Courtroom 411
Phoenix, Arizona 85003-2202
Telephone: (602) 506-0387

The hearing hours will be as follows: **9:00 a.m. to 12:00 p.m., and 1:30 p.m. to 4:30 p.m.**

IT IS FURTHER ORDERED that all parties shall hand-deliver to the Clerk of this Division (1) all Exhibits to be used at the hearing and (2) a bench copy for the Court of all Exhibits in a tabbed binder **at least seven (7) business days prior to the hearing.** **Please contact the Clerk with any questions regarding procedures for marking and submitting Exhibits (602) 506-7504.** All hearing Exhibits shall have been exchanged prior to that time. Exhibits shall be accompanied with a numbered list of each Exhibit and shall be separated with a blank sheet of colored paper. No duplicate Exhibits shall be presented for marking. Exhibits are marked in numerical order per party, making it necessary to mark all of one party's Exhibits before marking the other party's. Accordingly, the Defendant's Exhibits numbering shall start at the next number following the last of Plaintiff's Exhibits. (For example, Plaintiff submits 10 Exhibits, which are marked Exhibit 1 through 10. Defendant submits 10 Exhibits, which are marked 11 through 20). Exhibits must be stapled or bound together prior to delivery to the clerk.

IT IS FURTHER ORDERED counsel shall file **and contemporaneously email to Court staff at least five (5) business days prior to the hearing,** a **Joint** Hearing Statement signed by all counsel/parties.

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- a) Deposition Summary (if applicable): Counsel shall provide to the Court copies of any deposition transcripts to be read in place of live testimony. 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) Exhibit List and Final List of Witnesses: The Joint Hearing Statement shall include an Exhibit titled: Exhibit List and Final List of Witnesses. The Exhibit shall contain a list of each party's exhibits and a list of the names of each witness a party actually intends to call at the hearing, the day on which they intend to call each witness and the **estimated time needed for direct, cross and re-direct examination**.

NOTICE: Exhibits Marked But Not Offered

All exhibits (electronic or paper) not offered/received into evidence the day of the hearing will be disposed of by the courtroom clerk, unless a party requests that the evidence be returned prior to the conclusion of the hearing.

NOTE: All Court proceedings are recorded digitally 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.

10:33 a.m. Matter concludes.

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IT IS FURTHER ORDERED that when the Court so directs expressly, or when a filing is time-sensitive, the parties shall also **email it contemporaneously to all parties and Court staff**, when eFiling the document due to the processing time in the Clerk's Office for all e-filed documents.

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Email addresses for Court staff are as follows:

JA, Jennifer "JJ" Sommerville, Jennifer.Sommerville@jbazmc.maricopa.gov

Courtroom Assistant/Bailiff, Allison Gonzalez, Allison.Gonzalez@jbazmc.maricopa.gov

PLEASE NOTE: This Division requires that all motions, responses, replies and other Court 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 filing will be accepted if filed in combination with another. Additionally, all filings shall be fully self-contained and shall not "incorporate by reference" other separate filings for review and consideration as part of the pending filing.**

FOR ALL IN-PERSON APPEARANCES: Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2021-109 and the Maricopa County Superior Court Administrative Order 2021-119 require all individuals entering a court facility in Maricopa County to wear a mask or face covering at all times that they are inside the facility. Any person who refuses to wear a mask or face covering as directed by court personnel will be denied access to the facility. If a participant is denied physical access to a courthouse for refusing to wear a face covering, the participant must contact the assigned judicial division to determine whether the person can participate in the proceeding using an audio or video connection.