

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2002-008702

03/04/2005

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT  
D. Whitford  
Deputy

FILED: 03/08/2005

MONTANA DEL SOL CONDOMINIUM  
ASSOCIATION

JOYCE J KAPSAL

v.

JWE SPRING OAKS LLC, et al.

JILL ANN HERMAN

JACK G BARONE  
STEVEN R BARTELL  
TRIPLE D COUNTER TOPS INC  
ATTN: MR. CURTIS DAWE  
6611 W PEORIA, #5-142  
GLENDALE AZ 85302  
WILLIAM H DOUGLAS  
ANDREW M FEDERHAR  
MICHAEL WARZYNSKI  
MICHAEL W HERZOG  
BRADLEY R JARDINE  
JASON M KELLY  
JOSEPH A KULA  
DAVID E MCDOWELL  
ANDREW PESHEK  
GARY M SUNDBERG  
DENNIS I WILENCHIK  
M DUNCAN SCOTT  
LAWRENCE J FELDER  
LAWRENCE H FLEISCHMAN  
JOYCE J KAPSAL  
EPSTEN GRINNELL & HOWELL  
9980 CARROLL CANYON RD STE 200  
SAN DIEGO CA 92131

**PRETRIAL CONFERENCE**

Docket Code 027

Form V000A

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**ORAL ARGUMENT RESET  
ORDER ENTERED**

11:09 a.m. This is the time set for a Pretrial Management Conference and for oral argument on Defendant Third-Party Plaintiff's Motion to Strike and Motion for Summary Judgment; Third-Party Defendant's Motion for Summary Judgment for Protective Order; and all pending Motions for Summary Judgment.

**Appearances:**

- Plaintiff Montana Del Sol Condominium Association is represented by counsel Joyce Kapsal.
- Defendant JWE Spring Oaks, LLC. is represented by counsel Jill Ann Herman.
- Third-Party Defendant Rock Island Corporation d/b/a Jordan Window & Door. and Ace Masonry Company, Row and Bunch are represented by counsel Michael Warzynski.
- Defendant Red Rock Curb, Inc., Third-Party Defendant Michie Concrete and Central Valley Specialities, Inc. are represented by counsel Jack Barone.
- Third-Party Defendant Parra Drywall, Inc. is represented by co-counsel Jason Kelly and Jack Barone.
- Defendant Creekstone Builders, Inc. is represented by counsel David E. McDowell.
- Third-Party Catalina Roofing & Supply, Inc. is represented by counsel M. Duncan Scott.
- Third-Party Defendant Hilty's International, Inc. is represented by counsel M. Duncan Scott.
- Third-Party Defendant United Subcontractors, Inc., d/b/a Mesa Insulation Specialists is represented by counsel M. Duncan Scott
- Third-Party Defendant Kenro Turner Construction, Inc. is represented by counsel Lawrence Felder.

Discussion ensues re: the Court's prior orders re: mediation.

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**IT IS ORDERED** that Catalina Roofing and all of its carriers with full authority to settle the case be present at the mediation scheduled before Judge Lawrence Fleischman on **March 16, 2005 at 7:00 a.m.** at Paulson Reporting Services, unless Judge Fleischman excuses them in advance of the hearing.

Discussion ensues re: Plaintiffs' request that they not be charged any mediation fees for the mediation scheduled for March 16, 2005 with Judge Fleischman. Counsel for Third-Party Defendant Parra Drywall, Inc. also requests that his client not be charged for the scheduled mediation.

Discussion ensues re: Plaintiffs' Request for Orders to Show Cause. The Court will wait until they are fully briefed.

Pursuant to Plaintiffs' Request,

**IT IS ORDERED** that counsel Duncan Scott's two clients deliver the checks discussed to Plaintiffs' counsel Joyce Kapsal within 14 days from today or the Court will impose sanctions/interest from the date of the settlement agreement.

**IT IS FURTHER ORDERED** resetting Oral Argument from this date to **April 4, 2005 at 4:00 p.m.** on the following motions:

- Motions for Summary Judgment
- Motions to Strike
- All other pending motions

**Before:**

The Honorable Kenneth Fields  
Maricopa County Superior Court  
East Court Building  
Courtroom 414  
Phoenix, AZ 85003  
PHONE: 602-506-2060

11:22 a.m. Hearing concludes.

**ELECTRONIC ("E") COURTROOM**

A record of the proceedings may be made by videotape in lieu of a court reporter. Should an official transcript be required, you may request that the Court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and

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the parties are encouraged to experience the Court's video-recording system before requesting a court reporter.

**If a court reporter is required, a written request must be received by the Court at least 48 hours before the hearing.**

**NOTICE**

New Fee for Copies of Electronically Recorded Proceedings

Effective Monday, January 27, 2003, a fee of \$20.00 will be charged for each copy of superior court proceedings digitally recorded and provided on compact Disc (CD) and for each copy of a superior court proceeding provided on videotape. The fee is due when the CD or videotape is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable to: Clerk of the Superior Court.

Blank, unused CDs and videotapes will not be accepted in lieu of payment.

Beginning Monday, January 27, 2003, the pick up location for CD or videotape copies of superior court proceedings recorded in downtown Phoenix will be the court's Self Service Center located in the Law Library on the first floor of the East Court Building. Fees will be collected at the Self Service Center. Copies of superior court proceedings recorded at the court's Southeast Facility in Mesa and at the court's Northwest Facility in Surprise may be picked up, and fees paid, at the Self Service Centers at those locations.

Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, 602-506-7100 or [kcrensa@superiorcourt.maricopa.gov](mailto:kcrensa@superiorcourt.maricopa.gov)

Request for Daily Copy of Electronically Recorded Proceedings

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 fee and present both the receipt and the form to the courtroom clerk or bailiff. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.