

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2007-053132

03/01/2010

HONORABLE BRIAN R. HAUSER

CLERK OF THE COURT
W. Tenover
Deputy

DOMINICK ABATEMARCO

BRIAN M BERGIN

v.

CANTERRA AT SQUAW PEAK
CONDOMINIUM ASSOCIATION INC

MARK A HOLMGREN

TRIAL MINUTE ENTRY
DAY 1

Prior to the commencement of trial, Plaintiff's exhibit numbers 1-172, 274 and Defendant's exhibit numbers 173-273 are marked for identification. The exhibits are admitted/offered/released as shown in the Exhibit Worksheet filed herein.

FILED: Depositions of Greg Yurkiw dated January 19, 2010, Dominick Abatemarco dated December 18, 2009, Jan Alan Sell dated February 3, 2010, Eric Hayes dated January 27, 2010, David Dillon dated February 1, 2010, Elaine Acosta dated February 3, 2010 and Jean-Marc R. Freslon dated February 18, 2010.

9:23 a.m. Trial to a Jury. Plaintiff Dominick Abatemarco is present and represented by counsel, Brian M. Bergin, Ken Frakes and Catherine Adams. Defendant is represented by counsel, Mark A. Holmgren, Josh Bolen, Kellie Callahan and Javier Delgado.

The prospective jury panel is present.

A record of the proceedings is being made by CD (FTR) in lieu of a court reporter.

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Voir dire examination of prospective jurors.

The following jurors are excused for hardship: 20, 21, 23, 27 and 31.

Hardships of jurors and strikes for cause are discussed.

The following jurors are excused for cause: 14.

10:20 a.m. Court stands at recess.

10:58 a.m. Court reconvenes with respective parties and counsel present. The prospective jury panel is present.

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The names of the trial jurors in this cause are read by the clerk.

Preliminary Jury Instructions are read.

Upon stipulation of counsel, Plaintiff's exhibit number 117 is received in evidence.

Opening statements.

11:58 a.m. Court stands at recess.

1:30 p.m. Court reconvenes with respective parties and counsel present.

The jury is not present.

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Discussion is held regarding juror numbers 2 and 9. Counsel stipulate that juror numbers 2 and 9 may be dismissed and that five of the seven jurors will be necessary to return a verdict in this case.

1:34 p.m. Court stands at recess.

1:42 p.m. Court reconvenes with respective parties and counsel present.

The jury is present.

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Plaintiff's case:

Dominick Abatemarco is sworn and testifies.

Plaintiff's exhibit number 3 is received in evidence.

Plaintiff's exhibit number 94 is received in evidence.

Plaintiff's exhibit number 74 is received in evidence.

3:03 p.m. Court stands at recess.

3:18 p.m. Court reconvenes with respective parties and counsel present.

The jury is present.

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Dominick Abatemarco resumes the stand and testifies further.

The witness is excused.

Portions of the videotaped deposition of Elaine Acosta dated February 3, 2010 are played for the jury.

4:52 p.m. The jury is excused while court remains in session.

Let the record reflect the court has received written questions from the jury. Court and counsel discuss the same off the record and out of the hearing of the jury.

4:53 p.m. Court stands at recess until 9:30 a.m. on March 2, 2010.

FILED: Defendants' Designation of Transcript Portions From Videotaped Deposition of Elaine Acosta, Jury List, Preliminary Jury Instructions, Juror Question.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>