

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2011-052807

03/20/2014

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT  
M. MINKOW  
Deputy

SOLERA CHANDLER HOMEOWNERS  
ASSOCIATION INC

KELLIE J CALLAHAN

v.

LEONIDAS P SPALLAS, et al.

LEONIDAS P SPALLAS  
DAWN SPALLAS  
3851 E SAN MATEO WAY  
CHANDLER AZ 85249

JEREMY T BERGSTROM  
GALLIOS & BOLAND P C  
3131 E CAMELBACK RD  
STE 230  
PHOENIX AZ 85016  
NICHLAS P SPALLAS  
DAWN SPALLAS  
LEONIDAS P SPALLAS  
3840 E SAW TOOTH DR  
CHANDLER AZ 85249  
ROBERT J BRUNO

**RULE 16 SCHEDULING CONFERENCE SET**

Having received Motion to Set and Certificate of Readiness, filed by Plaintiff on March 13, 2014,

IT IS ORDERED setting a telephonic Rule 16 Scheduling Conference on **April 22, 2014 at 8:30 a.m.** (time allotted: 15 minutes) in this Division:

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The Honorable Michael D. Gordon  
Maricopa County Superior Court  
Northeast Regional Court Center  
18380 N. 40<sup>th</sup> Street, Courtroom 108  
Phoenix, Arizona 85032  
(602) 372-0762

Plaintiff shall be responsible for initiating the conference call by calling this Division at **602-372-0762** with all participating parties and counsel on the line at the date and time specified above.

**COUNSEL PARTICIPATING IN THE CONFERENCE CALL SHALL BE KNOWLEDGEABLE ABOUT THE CASE AND ITS STATUS, AND SHALL HAVE AUTHORITY TO MAKE DECISIONS ABOUT SCHEDULING AND OTHER MATTERS RELATED TO THE CASE.**

**NOTE:** The parties are advised that this Division does not set a trial date until completion of private mediation or a settlement conference through a Judge pro tem.

IT IS ORDERED that should a party file for bankruptcy protection, he/she must advise the Court under what Chapter of the United States Bankruptcy Code relief is being sought (e.g., Chapter 7, 13 or 15).

IT IS FURTHER ORDERED that should this case be removed to Federal Court, and subsequently remanded to this Court, the parties shall file a joint status report setting forth a brief description of the case, the contested issues and the procedural history of the case. The joint status report shall have, as an attached exhibit, copies of: (i) all pending motions, responses, and replies; and (ii) District Court orders addressing substantive issues and District Court orders addressing procedural issues that any party believes are relevant to the on-going proceedings before this Court. The parties shall comply with this Order no later than twenty (20) days from the date of its filing.

IT IS FURTHER ORDERED that if counsel representing a corporate entity seeks to withdraw from representation, he/she must advise the Court that he/she has informed the principals of that corporation that a corporation cannot represent itself in any court proceeding.

**JOINT PRETRIAL CONFERENCE MEMORANDUM**

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Counsel and any self-represented litigants are to meet personally before the Pretrial Conference to discuss those subjects listed under Arizona Rules of Civil Procedure, Rule 16(b) or 16(c) (if a medical malpractice case). The parties shall prepare and file a Joint Pretrial Conference Memorandum and Proposed Scheduling Order **no later than five judicial days before the conference** addressing all applicable subjects listed under Rule 16(b) or 16(c), as applicable, and including proposed discovery and disclosure deadlines. Proposed dates in the memorandum shall be stated as **dates certain** (e.g., January 5, 2014) and not, for example, as “90 days before trial.”

**The Joint Pretrial Conference Memorandum shall begin with a brief description of the nature of the case and the contested issues, as well as the estimated length of the trial. In addition, it shall include deadlines for the disclosure of expert and non-expert witnesses and an agreed-upon schedule for completion of discovery. As far as can reasonably be anticipated, each party shall set forth the depositions they anticipate taking and the approximate time required for each; any and all medical examinations which may be required of any of the parties; the person or persons to conduct such examinations; all requests for production; and all tangible evidence to be disclosed or exchanged.**

If the parties agree to the deadline dates, they shall prepare and file a proposed scheduling Order in the form set forth below, containing the provisions which are applicable to the case. If the parties are unable to agree on any of the provisions that are to be included in the Order, the reasons for their inability to agree shall be set forth in the Joint Pretrial Conference Memorandum, and the parties shall prepare and file a proposed Order without dates included.

Further, if the parties agree that a Rule 16 Scheduling Conference is not necessary because they agree on deadlines, they may file a joint motion to vacate.

If a Joint Pretrial Conference Memorandum is not timely submitted, the Court may place/continue the matter on the Inactive Calendar for dismissal. Counsel are reminded that the Court may impose sanctions against counsel and/or the parties for failure to participate in good faith in the Joint Pretrial Conference Memorandum or the Pretrial Conference.

**NOTE:** When the Joint Pretrial Conference Memorandum and proposed form of order are eFiled, the proposed form of order must be submitted in Word format, **not PDF or Word Perfect format**, to enable the Court to make changes/corrections thereto.

**LANGUAGE FOR PROPOSED ORDER:**

The Court has received and reviewed the parties' Joint Pretrial Conference Memorandum. In accordance therewith,

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IT IS ORDERED:

1. Plaintiff's final expert witness disclosure (in accordance with Ariz.R.Civ.P., Rule 26.1 (a)(6)) shall be served by \_\_\_\_\_, **20**\_\_.
2. Defendant's final expert witness disclosures (in accordance with Ariz.R.Civ.P., Rule 26.1 (a)(6)) shall be served by \_\_\_\_\_, **20**\_\_.
3. Any rebuttal expert witness disclosures (in accordance with Ariz.R.Civ.P., Rule 26.1 (a)(6)) shall be served by \_\_\_\_\_, **20**\_\_.
4. Final non-expert witness disclosures (in accordance with Ariz.R.Civ.P., Rule 26.1 (a)(3)) shall be served by \_\_\_\_\_, **20**\_\_.
5. All discovery shall be completed by \_\_\_\_\_, **20**\_\_. Any written discovery must be propounded far enough in advance of this date to allow for responses to be served in accordance with the Rules prior to this date.
6. The parties shall participate in private mediation by \_\_\_\_\_, **20**\_\_.

**OR**

The parties shall participate in a mandatory Settlement Conference. This matter is referred to the court's Alternative Dispute Resolution Office for the appointment of a judge *pro tempore* to conduct a settlement conference. **Counsel and/or the parties will receive a minute entry from ADR appointing the judge *pro tempore*.** Counsel and any self-represented litigants shall contact the appointed judge *pro tempore* to arrange the date, time and location for the settlement conference. The judge *pro tempore* is requested to conduct a settlement conference not later than \_\_\_\_\_, **20**\_\_. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office.

7. All dispositive or partially dispositive motions shall be filed by \_\_\_\_\_, **20**\_\_.
8. No expert witnesses, expert opinions, lay witnesses, or exhibits shall be allowed at trial other than those disclosed in a timely manner, except for good cause shown or by written agreement of the parties.

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9. A telephonic status conference is set for \_\_\_\_\_, **20\_\_** at \_\_\_\_\_ **m.** for the purpose of setting a trial date, a Final Pretrial Management Conference, and a Motions In Limine deadline if the case has not settled.

**NOTE:** Plaintiff shall be responsible for initiating the conference call by calling this Division at **602-372-0762**, with all participating parties and counsel on the line, at the date and time specified above.

10. Should any discovery disputes arise, any party seeking a discovery order shall, prior to filing discovery motions, meet and confer pursuant to Ariz.R.Civ.P., Rule 37(a)(2)(C). Counsel are advised that, as the Court interprets Rule 37(a)(2)(C), an exchange of correspondence between counsel is **not** sufficient to satisfy the “personal consultation” requirement of the Rule, except in extraordinary circumstances. At a minimum, counsel must speak to each other by telephone to attempt to resolve the dispute in good faith before involving the Court. Counsel are further advised that after the personal consultation referenced above, the Court is available to discuss, by joint telephone call, discovery disputes or any other matter that may impact the parties’ ability to resolve this case in a just, speedy and inexpensive manner. See Rule 1, 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.
12. This case is removed from the Inactive Calendar and all requirements of Rule 38.1, Ariz.R.Civ.P., are waived until otherwise ordered by the Court.
13. In no less than **five days** prior to the Status Conference set herein, the parties shall submit a **Joint Status Report** to the Court containing a brief history of the case, the status of discovery, any outstanding discovery disputes, and the status of the parties’ settlement efforts.

Effective April 15, 2014 new civil rules and forms are in effect for managing cases moving to trial. Be sure to review the new Civil Rules 16, 26, 37, 38, 72 through 74 and 77.