

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-007263

02/29/2016

HON. RANDALL H. WARNER

CLERK OF THE COURT
K. Ballard
Deputy

JEFFREY SALLUS, et al.

JAMES ROBERT ECKLEY

v.

SUNRISE DESERT VISTAS PROPERTY
OWNERS ASSOCIATION INC, et al.

GUY W BLUFF

LARRY D LANGLEY

TRIAL MINUTE ENTRY
DAY 5

Courtroom: ECB-512

9:30 a.m. Jury trial continues from February 25, 2016. Plaintiffs Jeffrey Sallus and Suzanne Sallus are present and represented by Counsel John Harris (appearing in place of James Robert Eckley). Defendants Grace Violette, Bernard Potof, Joyce Strole, Ronald Holewinski, and Rosie Holewinski are present and represented by Counsel Larry D. Langley and Kathleen M. Langley, who also represent Defendants Sunrise Desert Vistas Property Owners Association, Inc., Liz Potof and Ron Strole. The Jury is not present.

Court Reporter Luz Franco is present. A record of the proceedings is also made by audio and/or videotape.

Defendants' counsel advises the court that a defense witness will be called out of order this morning. Counsel further indicates that the witness, Joni Cage, and her counsel, Frances Oh Shinn-Eckberg, are present in the courtroom.

9:33 a.m. The Jury is now present.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-007263

02/29/2016

Let the record reflect Rosie Holewinski's testimony is being interrupted at this time to allow Defendants to call a witness out of order.

Joni Cage is sworn and testifies.

The witness is excused.

Plaintiffs' case resumes:

Rosie Holewinski resumes the stand and testifies further.

10:34 a.m. The Jury is excused; court remains in session.

Scheduling is discussed.

10:36 a.m. Court stands at recess.

10:56 a.m. Court reconvenes with respective counsel and the parties present. The Jury is present.

Court Reporter Luz Franco is present. A record of the proceedings is also made by audio and/or videotape.

Ronald Holewinski is sworn and testifies.

The court receives a question from the Jury. Court and counsel review the same outside the hearing of the Jury.

The witness is questioned further.

FILED: Jury Question (No. 2)

Plaintiffs rest.

Let the record reflect that Defendants move for judgment as a matter of law outside the hearing of the Jury. The motion will be deferred to a later time.

Defendants' case:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-007263

02/29/2016

Suzanne Sallus is recalled and testifies further.

Jeffrey Sallus is recalled and testifies further.

Defendants rest.

The court addresses the Jury regarding scheduling.

11:53 a.m. The Jury is excused; court remains in session.

Defendants' exhibit 139 is received in evidence.

Plaintiffs' exhibit 7 is received in evidence, at the request of Defendants.

Defendants' exhibit 131 is received in evidence.

Defendants' exhibit 137 is received in evidence.

Defendants' exhibit 168 is received in evidence.

Plaintiffs' exhibit 37 is received in evidence, at the request of Defendants.

Plaintiffs' exhibit 4 is received in evidence.

Plaintiffs' exhibit 1 is received in evidence.

Plaintiffs' exhibit 102 is received in evidence.

11:56 a.m. Court stands at recess.

1:33 p.m. Court reconvenes with respective counsel and the parties present. The Jury is present.

Court Reporter Luz Franco is present. A record of the proceedings is also made by audio and/or videotape.

Rebuttal:

Suzanne Sallus is recalled to the stand and testifies further.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-007263

02/29/2016

Plaintiffs rest.

1:57 p.m. The Jury is excused for the day; court remains in session.

The court has reviewed Defendants' February 29, 2016 Motion for Judgment as Matter of Law (Rule 50).

IT IS ORDERED denying Argument A of the Motion with respect to Plaintiffs' claims for defamation and defamation per se based on May 7, 2012 Chase letter are time barred by the one-year statute of limitations.

Discussion and argument are presented on the other parts of the Motion.

IT IS ORDERED granting Argument B of the Motion with respect to Plaintiff Jeffrey Sallus may not base a claim for defamation or false light on the Chase May 7th letter.

IT IS ORDERED denying Argument C of the Motion with respect to the mugshot does not support a claim of defamation since there is nothing false about it.

IT IS ORDERED denying Argument D of the Motion with respect to Plaintiff Jeffrey Sallus did not plead or assert a cause of action for false light.

IT IS ORDERED granting Argument E of the Motion with respect to Plaintiff Suzanne Sallus may not base a claim for defamation or false light on the mugshot.

IT IS ORDERED denying Argument F of the Motion with respect to the mugshot was not publicized to the public. Consequently, insufficient evidence was produced to establish a prima facie case of false light based on the mugshot.

IT IS ORDERED denying Argument G of the Motion with respect to Plaintiffs have not submitted sufficient evidence of selective enforcement and Argument H of the Motion with respect to Plaintiffs have not submitted any evidence of damages to establish a prima facie case of breach of contract (selective enforcement claim).

IT IS ORDERED denying Argument I of the Motion with respect to Plaintiffs have not submitted sufficient clear and convincing evidence of the elements for punitive damages to establish a prima facie case justifying the submission of the claim for punitive damages to the jury.

Defendants' request for a limiting instruction is discussed.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-007263

02/29/2016

The court will give a limiting instruction but may modify what has been proposed by Defendants.

At the request of Defendants' counsel, the court will take a recess at this time to meet with counsel informally in chambers.

2:16 p.m. Court stands at recess.

2:41 p.m. Court reconvenes with respective counsel and the Plaintiffs present. The Jury is not present.

Court Reporter Luz Franco is present. A record of the proceedings is also made by audio and/or videotape.

Jury instructions are discussed and settled.

Verdict forms are approved.

2:50 p.m. Court stands at recess.

3:05 p.m. Court reconvenes with respective counsel present. The Jury is not present.

Court Reporter Luz Franco is present. A record of the proceedings is also made by audio and/or videotape.

The jury instructions are approved.

Two alternates will be selected by lot at the appropriate time.

3:07 p.m. Court stands at recess until 9:30 a.m. on March 1, 2016.