

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-010791

03/11/2020

HON. ROSA MROZ

CLERK OF THE COURT
S. Motzer
Deputy

MARDY C TOEPKE, et al.

MITCHELL W FLEISCHMANN

v.

PIONEER CONDOMINIUM ASSOCIATION OF SUN CITY WEST

DAVID G SCHMIDT

ALTERNATIVE DISPUTE
RESOLUTION - CCC
JUDGE MROZ

MINUTE ENTRY

Pursuant to the parties' Scheduling Order granted by the Court,

IT IS ORDERED this case 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 "pro per" parties will 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 **June 9, 2020**. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office.

All counsel and their clients, or non-lawyer representatives who have full and complete authority to settle this case, shall personally appear and participate in good faith in this settlement conference even if no settlement is expected.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-010791

03/11/2020

IT IS ORDERED setting a **Telephonic Trial Setting Conference** for the purpose of assigning a trial date on **August 18, 2020, at 9:00 a.m. (15 minutes allotted)** in this division, before:

HONORABLE JUDGE ROSA MROZ
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
4TH FLOOR, COURTROOM 414
PHOENIX, AZ 85003
602-372-0384

Counsel/parties shall have their trial calendars available for the conference.

Counsel shall consider the following in advising the Court how many days are necessary for trial. Trial is held from 9:30 a.m. to 4:30 p.m., Mondays through Thursdays. Each trial day is budgeted to be 4.5 hours of actual in court time, exclusive of breaks and bench conferences. The Court reserves for itself 4.5 hours for the Court to do its portion of voir dire, read preliminary and final jury instructions, and for jury deliberations. The parties will then be splitting the remaining time for each party's portion of voir dire, opening statements, witness examinations, and closing arguments. The Court uses a timer to keep track of your time. When you are out of time, you are out of words.

NOTE: Counsel for the Plaintiff is to initiate the telephonic conference by first arranging the presence of all other counsel or self-represented parties on the conference call and by calling this division's courtroom directly at **(602) 506-5518** at the scheduled time.

PRETRIAL ORDERS

The Court having been assigned to this case, the parties shall make note of the pretrial orders identified below. To the extent that the orders are inconsistent with any order that has been entered in this matter, including any scheduling order, this minute entry controls and the inconsistent language in any such previous order is vacated.

Discovery Disputes:

The Court follows the procedure set forth in Rule 26(d) in resolving discovery disputes.

Motion Practice:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-010791

03/11/2020

Do **not** combine pleadings. (Responses, replies, cross motions, etc., should each be filed as a separate pleading).

A proposed order/judgment must be attached as a Word doc. using the proper turbo court code. All stipulations, joint scheduling reports, unopposed motions, etc., **MUST** contain a proposed order. If your system is not allowing you to attach a Word order, you must email this division a copy to Stephanie Pham at Stephanie.Pham@jbazmc.maricopa.gov and she can attach it on our end.

ALL motions are held for a briefing period. If you need a determination sooner than a normal briefing period would allow, please do the following: 1. Speak with opposing counsel to make certain if they have an objection. If there is no objection, file a stipulation. 2. E-file the motion and email the filed document in Word format to the judicial assistant and opposing counsel. 3. Indicate that you are asking for a shortened briefing schedule and when you need a ruling. 4. The Court will review your request and email all parties with a briefing schedule if necessary.

If the parties have agreed to an extension of time for filing responses/replies, email my judicial assistant regarding the agreement. Otherwise, the Court may assume that no responses/replies will be filed and rule without the benefit of the response/reply.

Motions in Limine:

The granting or denial of a motion *in limine* turns on whether the admission of evidence reaches the level of reversible error or a mistrial. Motions *in limine* are not granted “except upon a clear showing of non-admissibility.” The parties shall not file motions denominated as “*in limine*” that are, in substance, late-filed motions for summary judgment.

1. Page Limit and Format: Neither the motion *in limine* nor the response may exceed **three pages**, including the caption. Showing that the motion has merit should not require more than that. Motions *in limine* shall be consecutively numbered in the caption identifying the party filing it and the subject of the motion; e.g. “Defendant’s Motion in *Limine* No. 1 Re: Insurance Agreement,” and shall deal with one discrete subject per motion. Do not respond to more than one motion in *limine* in each response.

Any motion *in limine* or response to such a motion should begin with a simple declarative sentence that identifies the evidence that is the subject of the motion, with the understanding that the broader the scope of the evidence to be excluded, the less likely it is that a motion *in limine* will be granted. The remainder of the motion or response should then explain why a mistrial or reversible error would or would not result if the motion is denied, with citations to authority that have reached the same conclusion in the same or similar circumstances (this also applies to motions

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-010791

03/11/2020

in limine based on any failure to disclose, keeping in mind that nondisclosure implicates Ariz. R. Civ. P. 37(c)). If the motion is unable to explain why its denial would result in a mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

2. Rule 7.2: Motions *in limine* shall be filed in accordance with Ariz.R.Civ.P. 7.2. Prior to filing any motion *in limine*, the parties through counsel must meet and confer to attempt to resolve issues to be raised by such motions, and any motions *in limine* must include a certification that counsel have so conferred.

3. Deadlines: The deadline for motions *in limine* is **30 days** before the final pretrial management conference. In both instances, responses must be filed **15 days** after service, and no replies should be filed unless requested.

4. Under Advisement: Although motions *in limine* will be considered as quickly as the court's schedule permits, they will not be taken under advisement any sooner than 15 days before the start of the trial, regardless of when they are filed. If the parties believe that a ruling on such a motion early in the case will facilitate settlement, they should notify this division (by telephone at (602) 372-0384 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

Daubert Motions:

The deadline for any motion brought for a Daubert hearing or brought under Ariz.R.Evid. 702, is the same as the dispositive motion deadline. Failure to file such a motion by this date shall constitute a waiver of (1) any objection that the expert is not qualified to render expert testimony, and/or (2) any objection that any opinion of the expert should be excluded under Ariz.R.Evid. 702.

Miscellaneous Issues:

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 up to three hours and \$280 for any hearing in excess of three hours. This fee does not include preparation of transcripts.

Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$30.00 charge. If a CD is requested, please obtain a form from the

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-010791

03/11/2020

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

Requests for interpreters, court reporters or video conference must be made at least two weeks prior to your hearing date.

Oral Argument/Trial time will be divided between Plaintiff and Defendant. “When you are out of time, you are out of words.”

If you are not familiar with this division’s electronic equipment, please make an appointment with the courtroom assistant, Markus Taylor, via email at Markus.Taylor@JBAZMC.Maricopa.Gov to test the equipment at least one week prior to your hearing. This court is an e-courtroom.

Preferred communication with this division is via email to the judicial assistant, Stephanie Pham, at Stephanie.Pham@jbazmc.maricopa.gov. We are able to respond much quicker to an email. Please make sure you endorse all parties involved in the case.

All inquiries regarding exhibit procedures should be directed to this division’s courtroom clerk, Diana Charbagi, at Diana.Charbag@Maricopa.Gov or at (602) 506-8806.

Please take the time to review the full protocol for Judge Mroz on the Maricopa County Superior Court website.