

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-054097

03/30/2020

HONORABLE LISA DANIEL FLORES

CLERK OF THE COURT
G. Chavez
Deputy

MARY COBER

STEVIE N SCOTTEN

v.

MANAGEMENT TRUST INC F N, THE, et al.

MICHAEL J FRAZELLE

MICHAEL A LUDWIG
JUDGE FLORES

PRETRIAL ORDER

Please review the pre-trial requirements addressed below. To the extent these requirements are inconsistent with any prior order, including any scheduling order, this minute entry controls and the inconsistent language in any such previous order is vacated.

Discovery/Disclosure Disputes:

Rule 26(d) explains in detail how discovery and disclosure disputes are to be addressed. The Court will not consider a discovery or disclosure dispute unless the Rule 7.1(h) certificate of good faith consultation is attached. As for urgent disputes, such as disagreements that arise during a deposition, a party may contact the Court by telephone, but before the Court will consider the issue, each party must provide to the Court, by e-mail to the judicial assistant, a one paragraph description of the issue. After she reads the summaries, the Court will speak to the parties on the telephone when she is available.

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General Motion Practice:

Do not combine motions and responses or replies in one document. Each item should be filed as a separate document. (For example, a response to a motion for summary judgment should not be combined with a cross-motion for summary judgment.)

For every motion, a proposed order/judgment must be attached or provided as a Word document using the proper turbo court code. All stipulations, joint scheduling reports, unopposed motions, etc., must contain a proposed order. If your system does not allow you to attach a Word order, you must e-mail a copy to this division's judicial assistant, Leslie Strombeck, at leslie.strombeck@jbazmc.maricopa.gov, and she can attach it on our end.

If the parties have agreed to an extension of time for filing responses/replies, e-mail the division's judicial assistant regarding the agreement. Otherwise, the Court may assume that no response/reply will be filed and rule without the benefit of the other party's position.

All motions are held for the briefing period set forth in the civil rules. If you need a determination sooner than a normal briefing period would allow, please do the following:

1. Speak with opposing counsel to determine if there is an objection to a shortened briefing schedule. If there is no objection, either say so in the motion or file a stipulation.
2. If there is an objection, e-file the motion for a shortened briefing schedule and e-mail the filed document in Word format to the judicial assistant and opposing counsel.
3. Indicate the basis for a shortened briefing schedule and the date by which a ruling is necessary.

If a shortened briefing schedule is requested, the Court will review the request and any objection, and the judicial assistant will e-mail the parties with the result.

The Court notes that there seems to be a pervasive belief that documents filed through AZTurboCourt are available immediately on the Clerk's docket for the Court to review. **This is incorrect.** Generally there is a two to three day delay between the time the document is e-filed by the party and the time it is available to the Court. For this reason, any time you want the Court to review something quickly, the document must be e-mailed to the Division's judicial assistant, as well as all other parties. This includes urgent matters and documents filed right before a hearing that the party wants the Court to review before that hearing. Please be aware that the delay in availability of documents also applies in the reverse; the Court may rule on a motion

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through the e-file system, but the order may not be docketed or delivered to the parties until the next business day.

Motions for Summary Judgment:

Each party is limited to filing **one** motion for summary judgment.

Page limits will be strictly enforced.

The parties may not stipulate to a modification of these requirements. If there is good cause for a modification, the party seeking a change must file a motion that explains the basis for a modification, and may include the statement that the motion is unopposed.

Motions in Limine:

The grant 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. Each party is limited to filing no more than seven motions in limine.
2. 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 in limine based on any failure to disclose, keeping in mind that nondisclosure implicates Ariz. R. Civ. P. 37(c)). If the motion fails to explain why its denial would result in a

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mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

3. Rule 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.
4. Deadlines: The deadline for motions in limine is 21 days before the final pretrial management conference. Responses are due no later than 14 days after service. No replies should be filed unless requested.
5. 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) 372-0825 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

Rule 702/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 (two calendar weeks) 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. 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. If a CD is requested, please obtain a form from the Self Service Center to request a daily copy of a court hearing or trial before it is held. Pay the applicable fee at the Self Service Center. Attach the receipt showing payment of the fee and

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present both the receipt and the form to the bailiff. For copies of hearings or trials recorded in the past, please call Electronic Records Services at 602-506-7100.

Requests for interpreters, court reporters or video conference must be made at least ten (10) judicial days (two calendar weeks) prior to the hearing date for which the request is made.

If you are not familiar with this division's electronic equipment, please make an appointment with this division's staff to test the equipment at least one week prior to your hearing.

Preferred communication with this division is via e-mail to the judicial assistant, Leslie Strombeck, leslie.strombeck@jbazmc.maricopa.gov. We are able to respond much more quickly to an e-mail than to a phone call. Please make sure your e-mail includes all parties involved in the case. Ex parte contact with anyone in the Division is not permitted, and any requests made through an ex parte e-mail will not be considered.

All inquiries regarding exhibit procedures should be directed to this division's courtroom clerk, Georgina Chavez, at (602) 372-7736.

Self-Represented Litigant Advisory

ATTENTION SELF-REPRESENTED LITIGANTS: Unless an attorney files a notice that he or she represents a party, the person(s) not represented by an attorney will act as his or her own attorney. **The law requires the court to hold all persons representing themselves to the same standard as a licensed attorney.** Self-represented litigants are encouraged to review the Arizona Rules of Civil Procedure, paying particular attention to Rule 26.

Before the judge can consider anything you send her, you must show her that you have given a copy of your request:

1. To the Clerk of the Court. The Clerk of the Court is a separately elected official. It is the clerk's job to keep an independent record of everything that happens at the court. The court cannot act on a document that has not been made a part of that record; and
2. To every other party involved in the case. This is so all parties have a fair chance to tell the judge what they think before she makes a decision.

Because of that, if you want the judge to consider something you send her, you must file the original document with the Clerk of the Superior Court, mail or deliver a copy directly to this division (that is, to the judge, using her specific courtroom address)

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PHOENIX, AZ 85032
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and mail or deliver a copy to all opposing parties. In addition, on each document you must include a signed certificate that says whether you mailed or hand delivered each copy, when you did so, and states the specific people and the specific addresses to which you mailed or hand delivered each copy. If a party is represented by a lawyer, you must send or deliver the copy to the lawyer, not to the party. All proposed orders submitted to this division must include copies of the order with self-addressed, stamped envelopes for all parties/counsel.

Do not mail or send papers for the clerk or other parties to the judge.

If you want to file papers with the Clerk of the Court by mail, please send them to:

Clerk of the Superior Court's Office
Civil File Counter
201 W. Jefferson
Phoenix, AZ 85003

The clerk's guidelines for filing by mail can be found at:

<http://www.clerkofcourt.maricopa.gov/filing-by-mail.asp>

In accordance with Rule 2.21 of the Local Rules of Practice for Maricopa County Superior Court, a self-represented party shall inform the Court of his or her current address, telephone number, and email address (if any). The self-represented party has a continuing duty to advise the Court of any change in address, telephone number, or e-mail address (if any) and shall notify the Court within ten (10) days of such changes. A change of address form may be downloaded at: <http://www.clerkofcourt.maricopa.gov/eformsondemand/108-303-409-500AddressChng.pdf>