

04/17/2002

CLERK OF THE COURT
FORM V000A

HONORABLE COLLEEN MCNALLY

K. Ballard
Deputy

CV 2001-002724

FILED: _____

ROBERT NELSON, et al.

ELLIOT G WOLFE

v.

GRAYHAWK PROPERTIES LLC, et al.

JOSEPH B SWAN JR

MICHAEL A LUDWIG

RULING

The Court received Defendants Grayhawk Properties' motion for leave to file third party complaint, Plaintiffs' response and Defendants' reply. The Court notes that this matter is set for trial on July 15, 2002.

This matter is a tort action arising from a motor vehicle accident. Plaintiffs allege negligence in the design of the road and its median, negligence in opening the road before the electric light signals were activated and failure to display adequate signage to control traffic. The proposed third party complaint seeks to raise a claim of indemnification against proposed third party defendants arising from contracts between Defendants and the proposed third party defendants.

The Court finds that allowing the third party complaint at this point in the proceedings would needlessly complicate and delay the case. The issues of law and fact regarding the tort and contract claims are not the same. Although some matters may overlap, the apportionment of fault and the indemnification issues expand the nature of the litigation greatly. Granting

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

*** FILED ***
04/19/2002

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leave to file a third party complaint less than three months before trial would result in unnecessary delay.

IT IS ORDERED denying Defendants Grayhawk Properties' motion for leave to file a third party complaint.

The parties are advised that the Court will not grant a motion to continue or a stipulation to continue the trial date absent good cause.