

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-008702

04/14/2004

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
D. Whitford
Deputy

FILED: 04/19/2004

MONTANA DEL SOL CONDOMINIUM
ASSOCIATION

JOYCE J KAPSAL

v.

JWE SPRING OAKS LLC, et al.

MICHAEL A ANDERSON

JACK G BARONE
STEVEN R BARTELL
WILLIAM H DOUGLAS
ANDREW M FEDERHAR
DOUGLAS H FITCH
FREDERICK G GAMBLE
JOHN T GILBERT
BRIAN L HENRY
MICHAEL W HERZOG
BRADLEY R JARDINE
JOSEPH A KULA
DAVID E MCDOWELL
ANDREW PESHEK
JONATHAN D SCHNEIDER
GARY M SUNDBERG
JULIE G OGAWA
ADAM B CAMPBELL
DANIEL E FREDENBERG
DAVID R GREEN
DREW M GULLY
JASON M KELLY
JOHN H CLINE
M DUNCAN SCOTT
DOUGLAS A LUSSON

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**ORAL ARGUMENT/TAKEN UNDER ADVISEMENT
STATUS CONFERENCE SET**

4:00 p.m. This is the time set for Oral Argument on Central Valley's Motion to Dismiss Third-Party Complaint; Red Rock's Motion to Dismiss with Joinder by Michie Concrete and Joinder by Hart Plumbing; Third-Party Defendant Parra Drywall's Motion for Summary Judgment; Third-Party Defendant Ultra Installations' Motion for Summary Judgment with a joinder and status conference.

Appearances:

- **Plaintiff Montana Del Sol Condominium** is represented by counsel Joyce Kapsal and Douglas A. Lusson.
- **Defendant/Third-Party Plaintiff Creekstone Builders, Inc.** is represented by counsel David E. McDowell.
- **Defendant JWE Spring Oaks, LLC** is represented by counsel John Cline and Julie Ogawa.
- **Third-Party Defendants Catalina Roofing & Supply, Inc., Hilty's International Inc., and United Subcontractors (Mesa Insulation)** are represented by counsel M. Duncan Scott.
- **Third-Party Defendant Hart Plumbing of Arizona, Inc., and Cohaco Building Specialities, Inc.** are represented by counsel Joseph Kula.
- **Third-Party Defendant Hilty's International, Inc., and Construction 70** are represented by counsel Adam Campbell.
- **Third-Party Defendant Rick's Engineering** is represented by counsel Andrew Federhar.
- **Third-Party Defendant Parra Drywall, Inc. and Rondo Pools** are represented by counsel Jason M. Kelly.
- **Third-Party Defendant United Floor Covering & Interiors** is represented by counsel David R. Green and Drew M. Gully.
- **Third-Party Defendant Central Valley Specialists, Inc. and Michie Concrete, L.L.C.** are represented by counsel Jack Barone.

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- **Jordon Windows & Doors** are represented by counsel Douglas Fitch.
- **Delta Plastering** is represented by counsel Daniel Fredenberg.
- **Third-Party Defendant DLH Onsite, Inc.; Daniel & Riffany Hempelman** are represented by counsel Gary Sundberg.

The proceedings are recorded electronically by CD and videotape in lieu of a court reporter.

Oral Argument:

- Third-Party Defendant Central Valley Specialties, Inc.'s Motion to Dismiss JWE Spring Oaks, LLC's Third-Party Complaint with joinders by Third-Party Defendant Hart Plumbing of Arizona, Inc. and by Michie Concrete, L.L.C. is argued to the Court.

LET THE RECORD REFLECT that Red Rock Curb, Inc. has been dismissed so the Motion to Dismiss JWE Spring Oaks, LLC's Third-Party Complaint as to that third-party defendant is moot.

- Third-Party Defendant Parra Drywall, Inc. and Rondo Pools Motion for Summary Judgment with joinder by Third-Party Defendant United Floor Covering & Interiors is argued to the Court.

IT IS ORDERED taking the foregoing motions under advisement.

Mediation:

The parties have attended mediation and have further mediation scheduled. Discussion ensues as to who are required to appear at the mediation.

IT IS ORDERED that the parties or their designated representatives with authority to settle the case should appear at the mediations or get permission from Judge Fleischman not to appear.

Inspection Deadlines:

Discussion ensues as to extending the deadlines for the visual inspections to May 7, 2004.

Counsel for Creekstone Builders is directed to submit a proposed draft of the case management order extending the visual inspections to May 7, 2004.

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Discussion ensues re: deadlines re: destructive testing. Plaintiff's counsel will e-file the dates and times and unit for destructive testing..

Discussion ensues re: reports.

IT IS ORDERED that defendants must have the reports by June 30, 2004. and Third party defendants, by **July 30, 2004**.

Counsel will submit an amendment to the Case Management Order.

E-Filing:

Counsel are advised that e-filing is now mandatory in this case. All other filings will be rejected.

Status Conference:

IT IS ORDERED setting the next Status Conference for **September 17, 2004 at 9:00 a.m.** before:

The Honorable Kenneth Fields
Maricopa County Superior Court
East Court Building
Courtroom 414
Phoenix, AZ 85003
PHONE: 602-506-2060

(ALLOTTED TIME: 1 hour)

5:10 p.m. Status Conference concludes.

ELECTRONIC ("E") COURTROOM

A record of the proceedings may be made by videotape in lieu of a court reporter. Should an official transcript be required, you may request that the Court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the Court's video-recording system before requesting a court reporter.

If a court reporter is required, a written request must be received by the Court at least 48 hours before the hearing.

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NOTICE

New Fee for Copies of Electronically Recorded Proceedings

Effective Monday, January 27, 2003, a fee of \$20.00 will be charged for each copy of superior court proceedings digitally recorded and provided on compact Disc (CD) and for each copy of a superior court proceeding provided on videotape. The fee is due when the CD or videotape is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable to: Clerk of the Superior Court.

Blank, unused CDs and videotapes will not be accepted in lieu of payment.

Beginning Monday, January 27, 2003, the pick up location for CD or videotape copies of superior court proceedings recorded in downtown Phoenix will be the court's Self Service Center located in the Law Library on the first floor of the East Court Building. Fees will be collected at the Self Service Center. Copies of superior court proceedings recorded at the court's Southeast Facility in Mesa and at the court's Northwest Facility in Surprise may be picked up, and fees paid, at the Self Service Centers at those locations.

Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, 602-506-7100 or kcrensa@superiorcourt.maricopa.gov

Request for Daily Copy of Electronically Recorded Proceedings

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