

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

HONORABLE ROBERT C. HOUSER

CLERK OF THE COURT  
L. Slaughter  
Deputy

HELEN H FREDERICK

CHRISTOPHER D LONN

v.

PINNACLE PEAK VISTAS I V OWNERS  
ASSOCIATION

GREG S COMO

TRAYLOR E RICHARDSON  
KAREN L KARR  
ALTERNATIVE DISPUTE  
RESOLUTION - CCC

**TRIAL SETTING ORDER  
(WITH PRE-TRIAL MANAGEMENT CONFERENCE)**

9:02 a.m. This is the time set for Order to Show Cause Hearing and Comprehensive Pretrial Conference. Plaintiff is present and represented by counsel, Christopher D. Lonn. Defendant, Pinnacle Peak Vistas IV Owners Association, is represented by Karen L. Karr for Greg Como. Counterclaimant Pinnacle Peak Vistas IV Owners Association is represented by counsel, Traylor E. Richardson.

A record of the proceedings is made by CD/videotape in lieu of a court reporter.

Discussion is held regarding case status.

**LET THE RECORD REFLECT** that Counterclaimant's Order to Show Cause is moot.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

**IT IS ORDERED** disclosure of all non-expert witnesses and any exhibits shall be disclosed no later than **June 1, 2007**. At this time, the parties do not foresee the need for expert testimony.

**IT IS FURTHER ORDERED** that all discovery shall be completed no later than **June 29, 2007**.

**IT IS FURTHER ORDERED** the parties shall participate in a mandatory **Settlement Conference**. This case is referred to the court's Alternative Dispute Resolution 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 prior to the trial date of **September 10, 2007**. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office.

**IT IS FURTHER ORDERED** that the parties and insurance adjusters must personally attend and participate in the Settlement Conference. The Settlement Conference must be held and the parties must participate in good faith even if no settlement is expected.

**IT IS FURTHER ORDERED** if the parties choose to participate in private mediation, the parties shall notify this Division immediately.

In regards to Counterclaimant's request for Injunctive Relief,

**IT IS FURTHER ORDERED** the jury will be an advisory jury. The Court will ultimately make the determinations if Injunctive Relief is appropriate in this case.

**THIS IS A TRIAL SETTING ORDER. PLEASE READ CAREFULLY FOR COMPLIANCE.**

**IT IS FURTHER ORDERED** setting this matter for a 2-day jury trial commencing on **September 10, 2007, \*<sup>1</sup> at 9:30 a.m.** before:

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<sup>1</sup> One day's jury fees will be assessed unless the court is notified of settlement by 2:00 p.m. on the judicial day before trial.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

**HON. ROBERT HOUSER**  
**Judge of Superior Court of Arizona**  
**Northeast Regional Court Center**  
**18380 N. 40<sup>th</sup> Street**  
**Courtroom #110**  
**Phoenix, Arizona 85032**  
**(602) 506-5424**

**THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE ORDINARILY WILL NOT BE GRANTED.**

Trial days are normally 9:30 a.m. to 4:30 p.m., Monday through Thursday.

**IT IS FURTHER ORDERED** that all dispositive motions shall be filed not later than 120 days prior to trial so they may be briefed, scheduled, argued and decided prior to trial. **All motions in limine shall be accompanied by written certification that counsel have met and conferred in accordance to A.R.C.P. 7.2.** Motions in *limine* must meet the test of *State v. Superior Court*, 108 Ariz. 39 (1972): “The primary purpose of a motion in *limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial.” See also Ariz. R. Evid. 103(c). Each side may file one motion in *limine* not to exceed 15 pages and not containing more than five separate subjects. Motions not filed in accordance with this order will not be considered.

**IT IS FURTHER ORDERED** that the following rules shall apply to all depositions conducted in this action unless otherwise ordered by the Court:

- A. No objections shall be made except as follows:
  - i. Object to the form of the question.
  - ii. Object, privileged under the [applicable] privilege.
- B. No speaking objections shall be allowed. If, but only if, the questioner asks for the basis of an objection to the form of the question a brief explanation shall be given.
- C. If a privilege objection is made, the particular question shall not be answered without subsequent court order. The deposition shall proceed subject to reconvening if the court should later overrule the objection. Fees, costs and other sanctions may be imposed for groundless privilege objections.
- D. Attorneys shall not interrupt witnesses. Lengthy compound questions shall be avoided.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

- E. The length of any deposition shall not exceed four (4) hours (excluding breaks) without the agreement of all counsel or a prior order of the court.
- F. There shall be no attorney-client conferences between the witness and his/her attorney while any question is pending. There shall be no such conferences during the question sessions of the deposition.
- G. Unless agreed by all parties, any commenced deposition shall proceed on a business day until completed unless suspended by any party pursuant to Rule 30(d), Ariz. R. Civ. P.

**IT IS FURTHER ORDERED** setting a Final Pretrial Management Conference for **August 29, 2007, at 8:30 a.m. (30 minutes)**.

At the PTMC, counsel who will try the case shall appear and be prepared to discuss and resolve where applicable:

- A. Time limits for *voir dire*, opening statements, witness examinations and closing arguments. Direct examinations shall not exceed 1 hour in length without leave of court. Cross-examinations shall not exceed 30 minutes in length without leave of court. Redirect examinations shall not exceed 15 minutes in length without leave of court. Opening statements shall not exceed 30 minutes in length per side without leave of court. Closing arguments shall not exceed 1 hour in length per side without leave of court. *Voir dire* shall not exceed 10 minutes per side without leave of court.
- B. Stipulations and objections regarding witnesses and exhibits. If time permits, the court will rule on objections.
- C. Jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements, *voir dire* and verdict forms.
- D. Agreed-upon deposition summaries and excerpts from depositions including objections thereto.
- E. Scheduling, equipment or interpreter issues.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

- F. Status of settlement efforts.
- G. Motions in *limine* and other pending motions.
- H. Use of short-trial or summary jury trial.
- I. Other matters addressed in the updated joint pretrial statement.

**IT IS FURTHER ORDERED** a joint pretrial statement (JPTS) addressing at least all of the items set forth in Rule 16(d), Ariz. R. Civ. P., **shall be filed three (3) judicial days before the PTMC.** The following shall be filed with the JPTS:

- A. Proposed *voir dire* questions.
- B. A list to be read to the jury with names of all witnesses who may testify.
- C. A set of agreed-upon jury instructions.
- D. Separate sets of requested instructions that have not been agreed upon. (Review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the Recommended Arizona Jury Instructions (RAJI) Civil 4th “Statement of Purpose and Approach” before requesting non-RAJI instructions.) RAJI’s need not be typed and may be requested in the following manner: RAJI Civil 4<sup>th</sup> Preliminary—Duty of Jurors or by use of the jury instruction and verdict request forms contained in RAJI Civil 4th. Non-RAJI instructions should be typed. Each instruction should cover only one subject.
- E. A stipulated, brief summary of the case, which the court can read at the outset of *voir dire*.
- F. Proposed findings of fact and conclusions of law (if a request for findings has been or will be filed).
- G. All deposition or other transcribed testimony to be used at trial including Rule 106 additions. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony and the grounds for such objections are also to be set forth.

All exhibits shall be exchanged 30 days before trial. Duplicates will not be marked; therefore counsel shall confer regarding exhibits to avoid any duplication. All objections to

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

exhibits not set forth in the JPTS shall be deemed waived except for good cause. **At least ten judicial days prior to the Final Pretrial Management Conference, counsel or their knowledgeable assistants shall call the division clerk at (602) 372-7734 to discuss procedures for marking exhibits.** Original depositions are provided to the clerk for the record and are not marked as exhibits.

**IT IS FURTHER ORDERED** all exhibits shall be provided to the division clerk at the time of the Final Pretrial Management Conference, **August 29, 2007.**

9:24 a.m. Hearing concludes.

***E-Courtroom Policies***

Courtroom 110 is an “e-courtroom” and provides state of the art equipment for case presentation.

The e-courtroom does not have a court reporter present. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court’s digital recording system before requesting a court reporter. CD’s of the proceedings are available to purchase for viewing and/or transcribing.

If a court reporter is required, the court must receive a separate written request at least 72 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

ATTACHED: Time Estimates Form.

CAUSE NUMBER \_\_\_\_\_

CASE CAPTION \_\_\_\_\_

PLAINTIFF'S COUNSEL \_\_\_\_\_

DEFENDANT'S COUNSEL \_\_\_\_\_

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

**TIME ESTIMATES FOR TRIAL**

**Opening Statement and Closing Argument**

<b>PLAINTIFF'S OPENING STATEMENT</b>	
<b>DEFENDANT'S OPENING</b>	
<b>PLAINTIFF'S CLOSING</b>	
<b>DEFENDANT'S CLOSING</b>	
<b>PLAINTIFF'S REBUTTAL</b>	



SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

Estimate of Time for Witness Examination

<b>DEFENDANT'S WITNESSES</b>	<b>DIRECT EXAMINATION</b>	<b>CROSS EXAMINATION</b>	<b>REDIRECT EXAMINATION</b>

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-053021

03/29/2007

CASE CAPTION:  
TIME ESTIMATES

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

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Counsel for Plaintiff

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Counsel for Defendant

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