

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-011927

04/23/2007

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
D. Whitford
Deputy

DAVID B VANYO

JEFFREY D GROSS

v.

CAREFREE FOOTHILLS HOMEOWNERS
ASSOCIATION, et al.

KEVIN T MINCHEY

ROBERT C BROWN
ALTERNATIVE DISPUTE
RESOLUTION - CCC

**PRETRIAL CONFERENCE
TRIAL & PRETRIAL MANAGEMENT CONFERENCE SET**

9:45 a.m. (In Chambers) This is the time set for telephonic Rule 16 Pretrial Scheduling Conference. Plaintiff is represented by counsel Jeffrey D. Gross. Defendant Carefree Foothills Homeowners' Association is represented by counsel Kevin T. Minchey. Defendant Dwyer is represented by counsel Robert C. Brown.

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

Discussion ensues re: mediation/settlement conference.

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

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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 **July 31, 2007**. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office. **If counsel prefer to use a private mediator to conduct the Settlement Conference, a Stipulation and Order re: alternative to ADR must be presented to the Court by no later than 5:00 p.m. on ****, 2007.**

Pretrial matters are discussed.

IT IS ORDERED as follows:

I. Setting a firm jury trial for **November 14, 2007, at 9:00 a.m.,**

Before:

Hon. John A. Buttrick
Maricopa County Superior Court
Central Court Building
Courtroom 704; Suite 7D
Phoenix, AZ 85003-2205
PHONE: 602-506-0971

Time allotted for trial: **4 days**

II. Closure of Discovery and Motions

A. Rule 26.1

1. Plaintiff shall disclose all expert witnesses and all of the information required by Rule 26.1 (a)(6), Arizona Rules of Civil Procedure, by 5:00 p.m., on **July 2, 2007**.
2. Defendant shall disclose all expert witnesses and all of the information required by Rule 26.1(a)(6), Arizona Rules of Civil Procedure, by 5:00 p.m., on **August 1, 2007**.
3. The parties shall simultaneously disclose all rebuttal expert witnesses and all of the information required by Rule 26.1(a)(6), Arizona Rules of Civil Procedure, by 5:00 p.m., on **September 4, 2007**.

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4. The parties shall exchange simultaneous supplemental or updated non-expert disclosure statements by 5:00 p.m., on **September 4, 2007**. No information disclosed after that date may be used at trial, absent Court Order on Motion and Affidavit.

B. Pretrial Motions

Motions in Limine meeting the test of State v. Superior Court, 108 Ariz. 396, 499 P.2d 1521 (1972) and Rule 7.2, Ariz. Rules of Civil Procedure, if any, shall be filed **at least 30 calendar days before the final pretrial management conference**. **If there is no final pretrial management conference, the motions shall be filed at least 30 days before the trial date. Counsel are required to meet and confer before filing any motion in limine.**

C. Discovery Cutoff

All discovery shall be completed by **September 28, 2007**.

D. Dispositive Motions

All dispositive motions must be filed no later than **August 13, 2007**.

III. Pretrial Management Conference set:

IT IS ORDERED setting a final Pretrial Management Conference for **October 22, 2007 at 10:00 a.m.**, (Allotted time: 30 minutes) with **counsel to appear in person.**

Joint Pretrial Statement

The Joint Pretrial Statement (JPTS), in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due in this Division by **five days prior to the Pretrial Management Conference**. Counsel are to notify the Court at that time if an interpreter or any special equipment will be needed during trial.

In addition to the information required by the Arizona Rules of Civil Procedure Rule 16(d), counsel are to identify in the JPTS all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to

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be identified by reference to page and line numbers. Objections and the reasons for objections to such testimony, if any, are also to be set forth.

Also, with the JPTS, counsel shall deliver to this Division, copies of the following:

Proposed voir dire questions.

A joint set of agreed-upon preliminary and final jury instructions are to be submitted on disk in Word format.

Separate sets of requested instructions that have not been agreed upon are to be submitted on disk in Word format. Please read Rosen v. Knaub, 175 Ariz. 329, 857 P.2d 381 (1993); and the RAJI Civil 3d Statement of Purpose and Approach before preparing the request for non-RAJI instructions.

Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.

In trial by jury, the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of voir dire.

Exhibits

Counsel shall deliver to the Division the parties' exhibits along with a description of each exhibit [a hard copy plus (IF POSSIBLE) on an IBM-Compatible, 3.5 diskette in Microsoft Word 95 or 97] no later than **7 working days prior to trial**. Counsel may e-mail the list of exhibits with their descriptions to the assigned clerk (then no need for diskette). Identify each exhibit with its number; for example, attach a Post-it Note to each exhibit or separate each exhibit with a colored sheet of paper with the exhibit number written on it. If counsel have more than 100 exhibits each, submit exhibits in a three-ring binder with numbered-tabbed sheets separating each. A second copy of the exhibits is appreciated for use by Judge Buttrick.

(1) Counsel shall call before the above date to inform the assigned clerk, of the number of exhibits and the date counsel intend to deliver the exhibits, along with their list with a description of each exhibit on it prior to trial. When counsel calls, the assigned clerk shall provide counsel with a block of numbers for numbering that party's exhibits. If counsel intend to submit more than 25 exhibits each, counsel shall make arrangements with the clerk to provide assistance with attaching the exhibit tags to the exhibits at the time the exhibits are delivered to the division prior to trial or

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counsel may send a runner to the Division to pick up the tags in order for counsel to attach the tags to the exhibits at counsel's office (inform the clerk of this election prior to pickup).

(2) Keep the descriptions of the exhibits **simple (name of document; date)**. Don't use a description that can't be verified by looking at the document. For example, if you have a doctor's report, but it doesn't say "doctor's report" on the document, use another description or add a title page that says "doctor's report".

(3) Number the exhibits serially -- 1, 2, 3 etc., (**not** 1(a), 1(b)). **Don't skip numbers.**

(4) Counsel shall do their best to eliminate duplication of exhibits.

(5) **Do not list depositions** on the Exhibit Description Form; they are filed in separately by the clerk.

(6) List **only** the exhibits delivered to the clerk prior to trial. Do **not** list exhibits to be delivered at a later date, introduced at trial, or opposing party's exhibits.

EXAMPLE FOR PLAINTIFF

Caption: John Doe v. Jane Doe Cause No.: CV1999-000210

Plaintiff's Exhibits (*All exhibits are copies unless noted*)

1. Letter to John Doe from Jim Smith, 1/1/98
2. Medical records of John Henry Hospital, 1994-98
3. Deed to 1101 N. Central Avenue, Phoenix, AZ, 1/1/98

EXAMPLE FOR DEFENDANT

Caption: John Doe v. Jane Doe Cause No.: CV 1999-000210

Defendant's Exhibits (*All exhibits are copies unless noted*)

4. Letter to Henry Johnson from Carol Smith, 1/1/99
5. Medical records from Dr. J. Brown, 1994-98
6. Deed to 7201 N. Washington St, Phoenix, AZ, 1/1/98

(7) Please email the completed Exhibit Description List as soon as possible to the assigned clerk. Then arrange with the clerk to bring the completed Exhibit Description List and numbered exhibits

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to Judge Buttrick's Division (CCB 704; Suite 7-D) along with the description of all exhibits on disk.

(8) If there are any questions **concerning exhibits**, please call. All other questions are to be directed to the Division's Judicial Assistant.

(9) Keep the descriptions simple. Include title and type of document and date of document.

(10) **Don't include the bate #s** (should you use bate #s) in your descriptions of the exhibits.

(11) **Please provide descriptions of exhibits on a floppy disk when you bring the exhibits to the clerk at least 5 days prior to trial/hearing.**

Thank you for your cooperation.

10:00 a.m. 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.

NOTICE

Fee for Copies of Electronically Recorded Proceedings

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.

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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.