

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2016-050453

04/17/2020

HONORABLE THEODORE CAMPAGNOLO

CLERK OF THE COURT  
A. Wood  
Deputy

VILLAGE AT GRAYHAWK OWNERS  
ASSOCIATION

JOSHUA M BOLEN

v.

ALAN JONES, et al.

KATHRYN MARIE JONES  
1610 W ALOE VERA DR  
PHOENIX AZ 85085  
COURT ADMIN-CIVIL-CCC  
JUDGE CAMPAGNOLO

MINUTE ENTRY

The Court has reviewed and considered Defendant/Counterplaintiff's Request for Extensive Disability Accommodations Prior to any Further Case Activities and Pursuant to ADA Access Policy (the Request), the exhibits attached thereto, and the applicable law.

On March 17, 2020, Defendant completed the Maricopa County Superior Court's ADA form, which is attached as an exhibit to the Request. Based on her pleadings, the Court finds that Defendant has disabilities that entitle her to ADA accommodations. Defendant is seeking the following accommodations under the ADA:

1. Automatic, timely approval of extensions of time to respond to filings, meet deadlines, attend hearings, etc. The Court will be notified of these automatic approvals by telephone, either before or after the fact, but Defendant will "attempt" to notify the Court in writing beforehand.

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2. Frequent breaks during hearings, depositions, etc.
3. Depositions to be limited to two hours, with a suggested accommodation that she could attend more than one deposition per day.
4. Any deadlines or hearings that occur when she is ill, in surgery, hospitalized or recovering from illness, surgery, or hospitalization shall be extended or rescheduled to a sufficient time for Defendant to properly recover.

The ADA provides that “no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any public entity.” It also provides that “[a] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.”

Therefore, Defendant is entitled to “reasonable accommodations.” In that regard, the Court finds that the following are reasonable accommodations to her requests:

1. The Court will timely consider all filed requests in writing for extensions of time regarding deadlines, the filing of responses, or the rescheduling of hearings. The Court will consider any such requests by telephonic notice in emergency situations only, with the requirement that Defendant will have to file a written pleading regarding the telephonic request within 15 days of the deadline or hearing, so that there will be a written record of such request in the Court’s files.
2. The Court will allow Defendant to take reasonable and necessary breaks during depositions and hearings as needed to accommodate Defendant’s disabilities.
3. The Court will allow depositions to be limited to a total of two hours per deposition, which two hours shall not include breaks. This shall not prevent Plaintiff or Defendant from seeking leave from the Court to extend a deposition to the time period allowed by the Rules of Civil Procedure. Such a request for leave shall be filed prior to the deposition with sufficient time to allow the other party to file a response in writing within the time period allowed by the Rules of Civil Procedure. If this advance filing is not feasible due to time restrictions or other constraints, a post-deposition motion for leave to extend the time may be filed. The Court will not consider telephonic requests to extend the deposition, while the deposition is in session. The parties can always agree

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to extend a deposition beyond two hours without Court involvement. If the deposition breaks will encompass a lengthy period of time, such that it becomes unduly costly to one or both parties to wait, the parties can agree to reset the remainder of the deposition on another day, provided that the total length of the deposition will not exceed two hours, not counting break times.

4. Only one deposition per day will be allowed. This means one deposition per day, not one deposition per side per day. This accommodation is necessary, because the allowed two-hour deposition period may encompass several hours, depending on the length of reasonable and necessary breaks.
5. The Court will timely consider any requests to extend deadlines or reschedule hearings based on Defendant's illness, surgeries, hospitalizations, and reasonable recovery periods from such illness, surgeries or hospitalizations. Defendant will have to file the requests in writing ahead of time, unless she is prevented from doing so in emergency situations. In emergency situations only, Defendant, or someone acting on her behalf, may make such requests telephonically, but Defendant will have to follow up with the filing of a written request for the extension or rescheduling no later than 15 days after the illness, hospitalization, surgery or reasonable recovery therefrom. Any such request, whether pre- or post-incident, must be accompanied by a letter or note from a medical healthcare professional in support of the request. Any request for an extension or rescheduling based on a recovery period after hospitalization or surgery will have to be accompanied by a letter from the treating healthcare professional as to the reasonable time period for such a recovery.

The Court finds that the following request is not a reasonable accommodation, and will not be allowed:

6. The Court will not authorize an "automatic" granting of Defendant's requests for extensions of deadlines or rescheduling hearings. The Court has a legal duty to consider all such requests on an individual basis, and to make a decision on a request-by-request basis.

IT IS ORDERED that the above-stated reasonable accommodations numbered as 1 through 5 shall be in effect in this case, until further Order of the Court.