

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

04/21/2023

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
N. Johnson
Deputy

LAKWOOD ESTATES HOMEOWNERS
ASSOCIATION

QUINTEN T CUPPS

v.

MICHAEL A URBANO

ERNEST COLLINS JR.

CHRISTOPHER L ENOS
COLE CUMMINS
ANDREW APODACA
JUDGE RYAN

MINUTE ENTRY

East Court Building – Courtroom 814

10:00 a.m. This is the time set for a virtual Oral Argument via Court Connect regarding Plaintiff's Motion for Reconsideration, filed February 3, 2023. Plaintiff/Counterdefendant, Lakewood Estates Homeowners Association, is represented by counsel, Quinten T. Cupps and Cole Cummins. Defendant/Counterclaimant/Third Party Plaintiff, Michael A. Urbano, is represented by counsel, Ernest Collins, Jr. Third Party Defendant, The Lakewood Community Association, is represented by counsel, Andrew Apocada. The parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

Oral argument is presented.

For the reasons stated on the record,

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IT IS ORDERED taking this matter under advisement.

Discussion is held regarding the status of the case and the setting of a trial date.

For the reasons stated on the record,

IT IS ORDERED setting a **Status Conference** on **July 27, 2023 at 8:30 a.m. (time allotted: 15 minutes)** in this division regarding the Rule 54(b) Judgment.

The hearing(s) will be held by phone/video conference via the Court Connect platform. Please join my meeting from your computer, tablet or smartphone.

[Click here to join the meeting](#)

www.tinyurl.com/jbazmc-cvj10

You can also dial in using your phone (audio only)
+1 (917) 781-4590
Phone Conference ID: 803 526 856#

More information regarding Court Connect can be found at:
<https://superiorcourt.maricopa.gov/court-connect/>

IT IS FURTHER ORDERED setting this matter for a 3-Day **Trial to a Jury** commencing on **April 29, 2024 at 9:00 a.m.** in this division before:

**HONORABLE TIMOTHY RYAN
MARICOPA SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON STREET
8th FLOOR-COURTROOM 814
PHOENIX, AZ 85003
(602) 372-3081**

NOTE: This is a firm trial setting. Motions to continue based on lack of preparation will ordinarily not be granted. Trial will not proceed on Fridays as Fridays are law and motion days for this division.

The trial days are as follows: April 29, 30 and May 1, 2024.

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Trial days are normally Monday through Thursday from 9:30 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m., with a mid-morning and mid-afternoon break.

Note that the Court reserves for itself **one day** for jury selection, preliminary and final instructions, and jury deliberations.

IT IS FURTHER ORDERED setting a **Final Trial Management Conference** on **April 15, 2024 at 8:30 a.m. (time allotted: 30 minutes)** in this division.

The hearing(s) will be held by phone/video conference via the Court Connect platform. Please join my meeting from your computer, tablet or smartphone.

[Click here to join the meeting](#)

www.tinyurl.com/jbazmc-cvj10

You can also dial in using your phone (audio only)

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Phone Conference ID: 803 526 856#

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10:29 a.m. Matter concludes.

Based upon the foregoing trial setting,

DUTIES PRIOR TO FINAL TRIAL MANAGEMENT CONFERENCE

A Joint Pretrial Statement (“JPTS”) must be filed no later than **April 5, 2024**. **Plaintiff must deliver its portions of the JPTS to all other parties at least 20 days before the due date; all other parties must deliver their portions no later than 15 days before the due date. Ariz. R. Civ. P. 16(f)(1).**¹ In addition to the materials required by Arizona Rule of Civil Procedure 16(f)(2), counsel shall meet before the Final Trial Management Conference to discuss and prepare the following, which shall be filed with or included in the JPTS:

A. Proposed *voir dire* questions.

¹ The Court stresses the importance of the JPTS and the lawyers’/parties’ obligations to cooperate in preparing it without gamesmanship or delay. If necessary, the Court will hold telephonic or in-person hearings with lead trial counsel to address delays preparing the JPTS.

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- B. A completed Witness Information Form (attached), setting forth a list of all witnesses each party intends to call at trial in the order in which the party intends to call the witness, together with the estimated time needed for direct, cross, and redirect examinations.
- C. A joint set of agreed-upon jury instructions and verdict forms. Each party shall provide separate sets of any requested instructions that have not been agreed upon. (Please review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), and the RAJI Civil Statement of Purpose and Approach before requesting non-RAJI instructions.) Recommended Arizona Jury Instructions (RAJI (Civil)) need not be retyped but you may list them by name and number, such as:

RAJI Preliminary 1 - - Duty of Jurors
RAJI Standard 2 - - Burden of Proof
RAJI Negligence 1 - - Violation of Statute

NON-RAJI OR MODIFIED RAJI INSTRUCTIONS must be typed in Word format, numbered consecutively, one per page, with legal authority in support of the instruction. A thumb drive with, or emailed version of, any non-RAJI or modified RAJI instructions shall be provided to this Division.

- D. A brief statement of the claims for inclusion in RAJI Preliminary 14 – Claims Made and Issues To Be Proved.
- E. A stipulated summary of the case for the court to read during *voir dire*. If the parties cannot agree, then provide separate summaries. The Court encourages counsel in the strongest terms to agree on a non-evocative summary.
- F. A list, by page and line numbers, of all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, including designations of testimony that a party believes ought in fairness to be introduced under Arizona Rule of Civil Procedure 32(a), together with any testimony to be offered by an opposing/other party. **Any objection not included is waived.** Jurors generally prefer narrative summaries or brief excerpts of questions and answers, so the parties should confer and prepare agreed-upon summaries. The order after the trial management conference

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will include a protocol for providing these deposition transcripts to the Court.

- G. A sequentially numbered list of all marked exhibits containing a brief description of each exhibit and any objections. **Any objection not included is waived.** Catchall exhibit categories (*e.g.*, “all disclosure statements,” “all pleadings in this matter”) are improper.
- H. A single list in Word format of the names of the parties, party representatives, potential witnesses, experts, and any other person the parties want the Court to determine if potential jurors know. List the names in alphabetical order. Counsel must cooperate to create the list; do not provide separate lists. The parties must deliver this list to this division no later than 8:30 a.m. the morning of the Final Trial Management Conference. The Court will read this list to the panel during *voir dire*.

At the Final Trial Management Conference, counsel and any self-represented party who will try the case shall appear and be prepared to discuss and resolve:

- A. Allocation of trial time among the parties and, if appropriate, time limits for *voir dire*, opening statements, witness examinations, and closing arguments;
- B. Stipulations regarding witnesses testimony and the admission of exhibits;
- C. Jury instructions, juror notebooks, and verdict forms;
- D. Deposition summaries and excerpts from depositions including objections thereto;
- E. Scheduling, equipment, or interpreter issues;
- F. Status of settlement negotiations;
- G. Motions *in limine*; and
- H. Other matters addressed in the JPTS.

One day’s jury fees will be assessed against the parties (evenly divided) unless the Court is notified of settlement by 2:00 p.m. on the judicial day before trial. Counsel are reminded to promptly notify the Court of any settlement pursuant to Rule 5.3(d)

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PLEASE READ CAREFULLY THE FOLLOWING DUTIES PRIOR TO TRIAL

Discovery Disputes:

If a discovery dispute needs judicial intervention, the parties must first meet and confer (telephonically, if not in person). Absent resolution, counsel must jointly call Judicial Assistant, Brittany Sarracino at 602-372-3801 and obtain a date and time for a telephonic conference. The JA will try to set a time within the next five judicial days. You must file a statement of the issue and your position, not to exceed three pages (1.5 pages per side). If a written discovery request is involved, such as an interrogatory or request for production, provide the discovery request and response. [This differs from Rule 26(d)(2).] Email this submission to Judicial Assistant, Brittany Sarracino at least two judicial days before the conference at: Brittany.Sarracino@JBAZMC.Maricopa.Gov

Motions in Limine:

The granting or denial of a motion *in limine* turns on whether the admission of evidence reaches the level of reversible error or a mistrial. Motions *in limine* are not granted “except upon a clear showing of non-admissibility.” Do not file motions denominated as “*in limine*” that are late-filed motions for summary judgment. *Each side is limited to five motions in limine without leave of Court to file more.*

1. Page Limit and Format: Neither the motion *in limine* nor the response may exceed **five pages**, including the caption. Motions *in limine* must be consecutively numbered in the caption identifying the party filing it and the subject of the motion (*e.g.*, “Defendant’s Motion in *Limine* No. 1 Re: Insurance Agreement”) and address one discrete subject per motion. Do not respond to more than one motion in *limine* in each response.

Any motion *in limine* or response to such a motion should begin with a simple declarative sentence that identifies the evidence that is the subject of the motion, with the understanding that the broader the scope of the evidence to be excluded, the less likely it is that the Court will grant a motion *in limine*. The remainder of the motion or response should then explain why a mistrial or reversible error would or would not result if the motion is denied, with citations to authority that have reached the same conclusion in the same or similar circumstances. If the motion is unable to explain why its denial would result in a mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

2. Rule 7.2: File motions *in limine* in accordance with Arizona Rule of Civil Procedure 7.2. Before filing any motion *in limine*, the parties must meet and confer to attempt to resolve the

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issues. Motions *in limine* must include a certification that counsel conferred **at least telephonically, if not in person.**

3. Deadlines: The deadline for motions *in limine* is **30 days** before the final pretrial management conference. Responses are due **15 days** after service (no added mail time), and no replies should be filed unless requested.

4. Under Advisement: Although motions *in limine* will be considered as quickly as the court's schedule permits, they will not be taken under advisement any sooner than 15 days before the start of the trial, regardless of when they are filed. If the parties believe that a ruling on such a motion early in the case will facilitate settlement, they should notify this division (by telephone at (602) 372-3801 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

Trial Exhibits:

This division is piloting Case Center, a state-wide electronic exhibit portal. All exhibits should be electronically submitted through Case Center. When the case has been initiated by the Clerk of Court, the attorney of record and any self-represented party will receive an email invitation to the case created in Case Center. The attorney of record is responsible for inviting through Case Center any co-counsel or staff who need access to the case.

Counsel and any self-represented party shall upload all trial exhibits to Case Center no later than 3:00 p.m. on April 12, 2024.

For uploading exhibits to Case Center, please adhere to the following guidelines:

1. Exhibits must be appropriately titled. Any exhibit title containing derogatory or prejudicial information will be renamed by the Clerk.
2. Do not put exhibit numbers in your exhibit titles. Case Center will assign an exhibit number to each exhibit upon upload, and will number Plaintiff's exhibits and Defendant's exhibits separately (e.g., Plaintiff's exhibit 1; Defendant's exhibit 1, etc.).
3. Do not submit duplicate exhibits. **It is essential that the parties confer to avoid submitting duplicate exhibits.**
4. Original Depositions will not be marked as an exhibit. **Original** depositions to be used for impeachment purposes shall be provided in paper form to the Clerk on the first day of the hearing/trial to be hand-filed.

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5. If large charts or blow-ups are anticipated to be used, please include a small version (or photo) which can be marked as the exhibit. The charts and blow-ups are used for demonstrative purpose only, are not marked as the exhibits, and are returned.

The Court, Clerk, and all counsel and self-represented parties will have access to the exhibits through Case Center. The Court will not have paper copies of exhibits available for witnesses. Counsel may use the Case Center presentation software or may use their own trial presentation software to present exhibits to witnesses and the jury, as long as counsel can avow that the exhibits they present are true and accurate copies of the Court's exhibits. These matters will be discussed further at the Final Trial Management Conference.

Further information about Case Center and training materials can be found at:

<https://www.azcourts.gov/digitalevidence/Digital-Evidence-Information>

For additional assistance in preparation of exhibits contact the Courtroom Clerk at: (602) 372-1153.

Miscellaneous Issues:

Any requests for interpreters, court reporters or video conference must be made at least two weeks prior to your hearing date.

If you ever email this division, you must copy all parties involved in the case.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for up to three hours and \$280 for any hearing in excess of three hours. This fee does not include preparation of transcripts.

NOTE: The Arizona Constitution requires the Arizona Commission on Judicial Performance Review to conduct performance evaluations of superior court judges. The Commission is asking for your help to evaluate Maricopa County Superior Court judges currently undergoing performance review. After your hearing, if the judge you are in front of is undergoing review, a survey will either be given to you by court staff or will be emailed to you and you can take the survey online. The survey is conducted by the Docking Institute of Public Affairs at Fort Hays State University and is anonymous and confidential. Your participation in the review process is important! More information on Judicial Performance Review can be found at www.azjudges.info.

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NOTE: La Constitución de Arizona exige que la Comisión de la Evaluación del Desempeño Judicial realice evaluaciones de desempeño de los jueces de los tribunales superiores. La comisión pide su ayuda para evaluar a los jueces del Tribunal Superior del Condado de Maricopa a quienes actualmente se les está evaluando su desempeño. Después de su audiencia, si el juez frente a usted está siendo revisado, el personal de la corte le entregará una encuesta o se le enviará por correo electrónico y usted puede realizar la encuesta en línea. La encuesta es realizada por el Docking Institute of Public Affairs de la Fort Hays State University y se mantiene anónima y confidencial. ¡Su participación en el proceso de la evaluación es importante! Para obtener más información sobre la evaluación del desempeño judicial, diríjase a www.azjudges.info.

ATTACHED: Witness Information Form

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WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF:

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

PLAINTIFF'S TOTAL WITNESS TIME ESTIMATE: _____

WITNESSES FOR DEFENDANT:

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

DEFENDANT'S TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF(S)		DEFENDANT(S)
VOIR DIRE			
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	

PLAINTIFF'S TOTAL TIME ESTIMATE: _____

DEFENDANT'S TOTAL TIME ESTIMATE: _____

NOTE: if there are multiple parties on the same side who are represented by different attorneys, then each party being represented by different attorneys shall fill out his/her own time estimates.