

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2007-053132

05/07/2008

HON. PAUL A KATZ

CLERK OF THE COURT  
W. Bobrowski  
Deputy

DOMINICK ABATEMARCO

BRIAN M BERGIN

v.

CANTERRA AT SQUAW PEAK  
CONDOMINIUM ASSOCIATION INC, et al.

MARK A HOLMGREN

**JURY TRIAL SET**

8:49 a.m. This is the time set for Telephonic Pretrial Scheduling Conference. Plaintiff is represented by counsel, Brian M. Bergin. Defendants are represented by counsel, Mark A. Holmgren.

A recording of this proceeding is being made by CD (FTR) in lieu of a court reporter.

Discussion is held.

**IT IS ORDERED:**

1. Adopting the stipulated deadlines set forth in the parties' Joint Pretrial Memorandum filed on or about May 1, 2008.

The parties having advised the Court that they anticipate participating in a private mediation,

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**IT IS ORDERED** that the parties shall complete a private mediation by November 21, 2008. If they are unable to schedule a private mediation by September 26, 2008, they shall notify the Court, in writing, and advise the Court if they wish the Court to appoint a judge *pro tem* through the Court's Alternative Dispute Resolution Office to conduct a settlement conference.

**IT IS FURTHER ORDERED:**

1. This matter is set for Trial to a Jury on **January 26, 2009 at 9:00 a.m.**

Estimated length of trial is: **4 days.**

**THIS IS A FIRM TRIAL SETTING.** If counsel have any pre-existing conflicts with said trial date, they shall notify the Court, in writing, within five (5) days from today's date.

Counsel are advised that as of June 18, 2008, Judge Brian R. Hauser will assume this calendar and all future hearings will take place in Courtroom 109 of the Northeast Regional Court Complex (602) 506-6086.

2. The joint pretrial statement in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due by **5:00 p.m. on December 19, 2008.** In addition to the information required by Rule 16(d), counsel are to identify in/with the joint pretrial statement all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth. **Exhibits for trial shall be consecutively numbered and presented to the Clerk for marking in accord with the joint pretrial statement. Please DO NOT place exhibits in a notebook when submitting them to the Court.**

3. Motions in limine shall be due no later than **December 19, 2008.** Said motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial."

4. Responses to motions in limine shall be due no later than **December 26, 2008.** No replies shall be filed.

5. No less than five (5) judicial days prior to trial, counsel (or the parties) shall file:

A. Requested jury instructions and any voir dire questions counsel request that the Court ask.

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The Judge would appreciate counsel providing a copy of the jury instruction requests on IBM-compatible double-sided, high density 3.5 inch diskettes, in Microsoft Word.

B. Any trial memoranda (optional), which will be in lieu of post-trial briefs unless otherwise requested by the Court at the conclusion of the trial.

C. Proposed findings of fact and conclusions of law (if a request for findings of fact and conclusions of law has been or will be filed).

6. All motions (except motions in limine) shall be filed no later than **September 26, 2008** so they can be scheduled, briefed, argued and decided prior to trial.

7. Any PowerPoint or other computer presentations to be used by any expert witness during their testimony shall be disclosed at the time of their expert report and in no event any later than 30 days prior to the taking of their deposition. Any PowerPoint or other computer presentations to be used by counsel in their opening statements or closing arguments shall be disclosed no later than the date that the Joint Pretrial Statement is filed with the Court.

8. **At least one week before trial**, the trial lawyers shall make an appointment for themselves or their knowledgeable assistants to meet with the Clerk of this division (602-372-7725) to present all exhibits and a list of exhibit descriptions. All trial exhibits shall have been exchanged prior to that time. **No duplicate exhibits shall be presented for marking. If either party fails to comply with the steps for marking exhibits, that party's exhibits may be precluded from being marked at trial.** Please **DO NOT** place exhibits in a notebook when submitting them to the Court.

9. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.

10. The witness and exhibit lists shall contain no surprises; any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.

11. All documents and pleadings described above shall be hand-delivered, telefaxed or e-mailed to opposing counsel on the date they are delivered to the Court.

8:54 a.m. Hearing concludes.