

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-001187

05/09/2013

HON. JOHN REA

CLERK OF THE COURT
L. Gilbert
Deputy

SANDS SCOTTSDALE TOWNHOUSES I & I I, STEVEN W CHEIFETZ
et al.

v.

SANDS SCOTTSDALE HOME OWNERS CHAD PHILIP MIESEN
ASSOCIATION, et al.

MINUTE ENTRY

East Court Building – Courtroom 414

9:36 a.m. This is the time set for Oral Argument on 1) Defendants' February 27, 2013 Motion to Dismiss and 2) Defendants' February 27, 2013 Partial Motion to Dismiss re: Breach of Fiduciary Duty and Punitive Damages. Plaintiff Sands Scottsdale Townhouses I & II is represented by counsel, Steven W. Cheifetz and Jacob A. Kubart. Defendants are represented by counsel, Chad Philip Miesen.

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

Argument is presented.

For the reasons stated on the record,

IT IS ORDERED denying Defendants' Motions.

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IT IS FURTHER ORDERED as follows:

Counsel/parties are to meet personally to discuss all of the matters set forth in Rule 16, A.R.Cv.P. Counsel/parties shall prepare and file with the Court, no later than **June 21, 2013**, a Joint Status/Scheduling Memorandum, and a form of Order, for discovery, motion and disclosure deadlines.

If the parties agree to the dates, they should prepare an Order in the form set forth below, containing the provisions which are applicable to their case. For example, paragraph 1 of the Order set forth below need not be included in the parties' proposed Order if the parties intend to disclose their experts' identity and opinions at the same time they disclose their experts' areas of testimony. Similarly, if the parties agree to simultaneously disclose the identity and opinions of their expert witnesses, they need not include in their proposed Order the language set forth in paragraph 2a. and b., below.

The proposed Order shall include specific dates ("December 5, 2009" is a specific date. "90 days prior to trial" is a date in reference to a trial date and is not a specific date). **All applicable blanks should be filled in.** Do not incorporate a firm trial date in the proposed Order.

If counsel/parties are unable to agree on any of the items that are to be included in the Order, the reasons for their inability to agree shall be set forth in their Scheduling Memorandum and each shall prepare a separate proposed Order.

The Court will review the Joint Status/Scheduling Memorandum and Scheduling Order. If all is in order, the Court will set a scheduling/status conference (via separate minute entry) close to the discovery cutoff date. At the scheduling/status conference, if the parties have completed discovery and are ready for trial, the Court will set firm dates for the final pretrial management conference and the trial. If the parties are not ready for trial, the matter will be placed on the Inactive Calendar for dismissal **within 60 days**.

If counsel/parties feel a pretrial conference is still necessary at this stage of the litigation, they should address the reasons why in the first paragraph of the Joint Status/Scheduling Memorandum.

If a Joint Status/Scheduling Memorandum and Scheduling Order are not timely submitted, the Court will place the matter on the Inactive Calendar for dismissal.

PLEASE NOTE: This division requires that all motions, responses, replies and other Court requested filings in this case must be submitted individually. Counsel shall not combine

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any motion with a responsive pleading. All motions are to be filed separately and designated as such. No pleadings will be accepted if filed in combination with another.

10:17 a.m. Matter concludes.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however; subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

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SCHEDULING ORDER FORMAT:

The Court has received and reviewed the parties' Joint Status/Scheduling Memorandum and proposed Scheduling Order.

In accordance therewith,

IT IS ORDERED as follows:

1. The parties shall mutually and simultaneously disclose areas of expert testimony by **5:00 p.m. on _____, 20__**. [or]
 - a. Plaintiffs shall disclose areas of expert testimony by **5:00 p.m. on _____, 20__**.
 - b. Defendants shall disclose areas of expert testimony by **5:00 p.m. on _____, 20__**.
2. The parties shall mutually and simultaneously disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 20__**. [or]
 - a. Plaintiffs shall disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 20__**.
 - b. Defendants shall disclose the identity and opinions of their expert witnesses by **5:00 p.m. on _____, 20__**.
3. Any and all discovery requests shall be served by **5:00 p.m. on _____, 20__**.
4. The parties shall disclose all non-expert witnesses by **5:00 p.m. on _____, 20__**. [or]
 - a. Plaintiffs shall disclose areas of non-expert testimony by **5:00 p.m. on _____, 20__**.
 - b. Defendants shall disclose areas of non-expert testimony by **5:00 p.m. on _____, 20__**.
5. The parties shall mutually and simultaneously disclose their rebuttal expert witnesses and opinions by **5:00 p.m. on _____, 20__**.

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6. All discovery shall be concluded by **5:00 p.m. on _____, 20__**.
7. The parties shall have exchanged up-to-date final Rule 26.1 Supplemental Disclosure Statements by **5:00 p.m. on _____, 20__**. This Order does not replace the parties' obligation to seasonably disclose on an on-going basis under Rule 26.1 as information becomes available.
8. Settlement conference (choose one):

a. **PRIVATE MEDIATION**

The parties shall participate in private mediation by **5:00 p.m. on _____, 20__**;

All counsel/parties and their clients, or non-lawyer representatives who have full and complete authority to settle this case, shall personally appear and participate in good faith in this mediation, even if no settlement is expected. The mediator may permit a non-lawyer representative to appear telephonically if such appearance is requested and granted prior to the hearing.

OR

b. **REFERRAL TO ADR FOR SETTLEMENT CONFERENCE**

****Referral will be issued by Clerk via separate minute entry.****

The parties request a referral to the Court's Alternative Dispute Resolution Office (ADR) for the appointment of a judge *pro tempore* to conduct a settlement conference. The parties request that the judge *pro tempore* conduct a settlement conference not later than _____, **20__**. (**NOTE:** The ADR Office requires a minimum of 90 days to set a conference date.)

9. No expert witnesses, expert opinions, lay witnesses, or exhibits shall be used at trial other than those disclosed in a timely manner, except for good cause shown or written agreement of the parties.
10. Should any discovery disputes arise, counsel/parties, prior to filing discovery motions, shall meet and confer pursuant to Rule 37, Ariz.R.Civ.P. If the issues are straightforward enough not to require briefing, counsel/parties may

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telephonically contact the Court to set up a telephonic conference to discuss any remaining issues.

11. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.
12. Rule 38.1 of Ariz.R.Civ.P. is waived unless and until otherwise ordered by the Court.

A Telephonic Status/Scheduling Conference for the purpose of assigning a trial date will be set via separate minute entry.

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Date

Honorable John C. Rea
Judge of the Superior Court