

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2013-013750

05/06/2014

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT  
C. Keller  
Deputy

CHALET 103 CONDOMINIUM ASSOCIATION    LINDSEY O STEARNS

v.

JOANIE B RUSSELL

JOANIE B RUSSELL  
13224 N 98TH AVE  
SUN CITY AZ 85351

**STATUS CONFERENCE RESET**

On the Court's own motion,

**IT IS ORDERED** vacating the Telephonic Pretrial Status/Scheduling Conference set for May 6, 2014 and resetting same to **June 19, 2014 at 9:00 a.m. (15 minutes allotted)** for the purpose of assigning a trial date and a final pretrial management conference date if the case has not settled. Counsel shall have their trial calendars available. Counsel for Plaintiff shall initiate the telephonic conference by first arranging the presence of all other counsel on the conference call and by calling this division at: **(602) 372-5851 promptly** at the scheduled time. **The parties and counsel shall not be permitted to participate in conferences via cell phones or speakerphone.**

**Discovery Disputes** – Discovery disputes are strongly discouraged. Before filing a written motion to compel, please observe the following procedure.

If you believe that discovery to which you are entitled has not been provided to you as required by the applicable rules, and you want the court to intervene, you must contact the other

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party's attorney (or the other party if he/she is self-represented), and then together, telephone the court to ask for a telephonic conference. If the Judge assigned to this case is available, he will take the call immediately. No such request will be considered, however, if made 10 or fewer calendar days before the scheduled trial or evidentiary hearing.

To encourage the resolution of discovery disputes without court intervention, you are urged to consider the risk that comes from not providing discovery responses as required by the applicable rules. Even if no telephonic conference regarding discovery is requested, should a party fail to provide discovery that the court later decides is relevant, the jury may be told, or the court may assume, that the failure to provide discovery warrants an adverse inference against the party who refused to provide it. *E.g., Sing v. Gonzales*, 491 F.3d 1019, 1024 (9<sup>th</sup> Cir. 2007) ("When a party has relevant evidence in his control which he fails to produce, that failure gives rise to an inference that the evidence is unfavorable to him" (citation omitted)); *see also Pendleton v. Brown*, 25 Ariz. 604, 622, 221 P. 213, 219 (1923) (similar). Further, when a party fails to respond completely to discovery requests that the court concludes are reasonable, the trier of fact is permitted to assume that party is not credible in other ways. *See generally Callender v. Transpacific Hotel Corp.*, 179 Ariz. 557, 562, 880 P.2d 1103, 1108 (App. 1993); *see also Nardella v. Campbell Mach., Inc.*, 525 F.2d 46, 49 (9<sup>th</sup> Cir. 1975) (quoting *Banks v. Chicago Grain Trimmers*, 390 U.S. 459, 467 (1968)).