

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

05/03/2021

HONORABLE JAMES D. SMITH

CLERK OF THE COURT
K. Treftz
Deputy

LAKWOOD ESTATES HOMEOWNERS
ASSOCIATION

QUINTEN T CUPPS

v.

MICHAEL A URBANO

ERNEST COLLINS JR.

JUDGE J. SMITH

MINUTE ENTRY

Pursuant to the parties' Second Scheduling Order granted by the Court,

IT IS ORDERED vacating the telephonic **Trial Setting Conference** for the purpose of assigning a trial date, set on May 4, 2021 at 8:30 a.m., and resetting same to **December 16, 2021 at 8:45 a.m. (15 minutes reserved)** before:

**HONORABLE JAMES D. SMITH
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
8TH FLOOR, COURTROOM 814
PHOENIX, AZ 85003
(602) 372-5945**

Counsel/parties shall have their trial calendars available for the conference.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

05/03/2021

NOTE: Counsel for the **Plaintiff** is to initiate the telephonic conference by first arranging the presence of all other counsel or self-represented parties on the conference call and by calling this division promptly at the scheduled time.

Counsel shall consider the following in advising the Court how many days are necessary for trial. Trial is held Monday through Thursday from 9:30 a.m. to 4:30 p.m., with a mid-morning and mid-afternoon break. Each trial day is budgeted to be 4.5 hours of actual in court time, exclusive of breaks and bench conferences. The Court reserves for itself one day for its portion of voir dire, reading preliminary and final jury instructions, and for jury deliberations. The parties will split the remaining time for each party's portion of voir dire, opening statements, witness examinations, and closing arguments. The Court uses a timer to keep track of your time.

PRETRIAL ORDERS

Discovery Disputes:

If a discovery dispute needs judicial intervention, the parties must first meet and confer telephonically, if not in person. Counsel (or a self-represented litigant) must together call my Judicial Assistant (“JA”), and obtain a date and time for a telephonic conference. My 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 my JA at least two judicial days before the conference at: (Michael.Fierro@JBAZMC.Maricopa.Gov).

Motion Practice:

Do **not** combine requests for relief. (Responses, replies, cross motions, etc., must be filed separately).

A proposed order/judgment must be attached as a Word doc. using the proper turbo court code. All stipulations, joint scheduling reports, unopposed motions, etc., **MUST** contain a proposed order. If your system is not allowing you to attach a Word order, you must email a copy to my JA.

ALL motions are held for a briefing period. If you need a determination sooner than a normal briefing period would allow, please do the following: 1. Speak with opposing counsel to determine if they object. If they do not object, file a stipulation. 2. E-file the motion and email the filed document in Word format to the judicial assistant and opposing counsel. 3. Indicate that you

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

05/03/2021

are asking for a shortened briefing schedule and when you need a ruling. 4. The Court will review your request and email all parties with a briefing schedule if necessary.

If the parties have agreed to an extension of time for filing responses/replies, email my judicial assistant regarding the agreement. Otherwise, the Court may assume that no responses/replies will be filed and rule without the benefit of the response/reply.

Unless another order in this case establishes an earlier deadline, the deadline for filing a summary judgment motion is approximately **150 days before trial**. No modification, including a stipulated modification, of this deadline will be honored absent a motion explaining why the 150-day deadline is impractical in the circumstances.

Daubert Motions:

The deadline for any motion brought for a *Daubert* hearing or brought under Arizona Rule of Evidence 702 is the **same as the dispositive motion deadline**. Failure to file such a motion by this date shall constitute a waiver of (1) any objection that the expert is not qualified to render expert testimony, and/or (2) any objection that any opinion of the expert should be excluded under Arizona Rule of Evidence 702.

Disclosure Motions:

All motions to exclude untimely- or improperly-disclosed information or arguments are due 28 days after that untimely or improper disclosure. See Ariz. R. Civ. P. 37(c). Motions to exclude an expert as violating the one-expert-per-issue rule are due 28 days after the allegedly-duplicative opinion is disclosed (whether in a disclosure statement, deposition, etc.). See Ariz. R. Civ. P. 26(b)(4)(F). You must meet and confer before filing such motions.

Motions for Summary Judgment:

Follow Arizona Rule of Civil Procedure 5.2(B)(1)(b), which requires 13 point font in text and footnotes. The Court rarely grants motions to exceed page limits as well. Separate statements of fact under Arizona Rule of Civil Procedure 56(c)(3) cannot exceed 12 pages, excluding exhibits.

The Court presumptively limits each party to one motion for summary judgment. That party must include all arguments regarding summary judgment regarding a claim or defense (or part of a claim or defense) in that motion. If a party believes that he/she/it cannot address all issues in the 17-page limit, then he/she/it must seek leave to file an oversize brief before filing the motion for summary judgment.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

05/03/2021

The parties must exchange letters of two pages or fewer at least 30 days before filing a motion for summary judgment. Those letters will describe any anticipated motions for summary judgment and responses, identifying the issues and claims on which a party will seek summary judgment. The purpose is to narrow issues, focus briefing, and perhaps eliminate the need for separate statements of fact. If a party does not anticipate filing such a motion, then he/she/it will send correspondence noting that fact.

The Court prohibits “cross-motions” or “counter-motions” for summary judgment. [See above regarding the prohibition on combining requests for relief.] If a party believes that he/she/it is entitled to judgment as a matter of law, then he/she/it must file a motion for summary judgment on the claim or defense (or part of a claim or defense) by the dispositive motion deadline. Raising the request for relief in a response to the opponent’s motion is an untimely motion for summary judgment. Although this order appears under the heading of motions for summary judgment, it applies equally to other motions (*e.g.*, do not file a “cross-motion” to compel in response to your opponent’s motion for protective order).

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 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.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-010651

05/03/2021

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 ante el cual comparece está sometido a una evaluación se le enviará por correo electrónico una encuesta que usted podrá tomar por Internet. 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.