

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-015126

06/08/2004

HONORABLE PETER C. REINSTEIN

CLERK OF THE COURT  
M. Sahli  
Deputy

FILED: 06/09/2004

EAGLE MOUNTAIN COMMUNITY  
ASSOCIATION

MICHAEL G WALES

v.

EAGLE MOUNTAIN INVESTORS L L C

WILLIAM A NEBEKER

CARRIE A KERCSMAR  
STEPHEN E RICHMAN

MINUTE ENTRY

8:42 a.m. In chambers. This is the time set for Telephonic Comprehensive Pretrial Conference. All parties appear telephonically. Plaintiff is represented by counsel, Michael Wales. Defendant Eagle Mountain Investors is represented by counsel, Carrie Kerksmar, Stephen Richman and William Nebeker.

No court reporter is present.

Discussion is held.

**IT IS ORDERED** setting Telephonic Status Conference for **May 23, 2005 at 8:30 a.m.** to review length of trial. Counsel for Plaintiff shall initiate the conference call.

**IT IS ORDERED** Adopting by reference, as an Order of the Court, the Joint Pretrial Statement. The terms of the memorandum shall govern, unless inconsistent with any provisions of this minute entry. References to "counsel" shall be read to include unrepresented parties.

**IT IS FURTHER ORDERED** setting this matter for a 4-week jury trial for **Tuesday, August 9, 2005.**

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The Honorable PETER C. REINSTEIN  
Maricopa County Superior Court  
Old Courthouse  
125 W. Washington, Courtroom 303  
Phoenix, Arizona 85003  
(602) 506-6368

**THIS IS A FIRM TRIAL SETTING**

Trial days are normally 9:30 a.m. to 4:30 p.m., Tuesday through Friday.

**PRETRIAL MOTIONS:**

1. All dispositive motions shall be filed at least **90 days before trial**.
2. Any Motions *in Limine* shall be filed **thirty (30) days before the PTMC** and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 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." See also, Ariz. Rules of Evidence, Rule 103(c). A written response to a motion *in limine* may be filed no later than **ten (10) days thereafter**. The Court will rule on the motions *in limine* without oral argument. No motions will be considered outside of those filing limits. **No replies shall be filed**.
3. All other pretrial motions shall be filed at least **60 days before trial**. Motions not filed in accordance with these deadlines will not be considered.

A Pretrial Management Conference (PTMC) is set for **August 1, 2005 at 8:30 a.m.** in this division. Time allotted: **30 minutes**.

At the PTMC, counsel who will try the case shall appear and be prepared to discuss and resolve:

- A. Time limits for *voir dire*, opening statements, witness examinations and closing arguments.
- B. Stipulations and objections regarding witnesses and exhibits. If time permits, the court will rule on objections.
- C. Jury instructions, juror notebooks and verdict forms.
- D. Deposition summaries and excerpts from depositions including objections thereto.

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- E. Scheduling, equipment or interpreter issues.
- F. Status of settlement efforts.
- G. Motions in *limine* and other pending motions.
- H. Other matters addressed in the updated joint pretrial statement.

A joint pretrial statement (JPTS) is due three judicial days before the PTMC. The following shall be filed with the JPTS:

- A. Proposed *voir dire* questions.
- B. A list to be read to the jury with names of all witnesses who may testify.
- C. A set of agreed-upon jury instructions.
- D. Separate sets of requested instructions that have not been agreed upon. (Review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose before requesting non-RAJI instructions.)
- E. Proposed findings of fact and conclusions of law (if a request for same has been or will be filed).
- F. A stipulated brief summary of the case, which the court can read at the outset of *voir dire*.

**\*\*\* ATTORNEYS AND ASSISTANTS---PLEASE READ NUMBER G CAREFULLY\*\*\***

G. All exhibits shall be exchanged 30 days before trial. Counsel shall confer regarding exhibits so that duplicates are avoided. **Counsel or their designated representative shall call the division clerk at (602) 506-3813 no later than 10:00 a.m. ten days before trial to make arrangements for marking exhibits and to inform the clerk the number of exhibits counsel intend to mark for identification prior to trial.** The exhibits will be marked serially with Plaintiff's first, Defendant's second. Counsel shall advise the clerk, by signed stipulation or on the record, which exhibits may be marked **directly into evidence**. Original depositions are provided to the clerk for the record and are not marked as exhibits.

The parties have agreed to schedule a settlement conference through a private mediator.

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One day's jury fees will be assessed unless the court is notified of settlement by 2:00 p.m. on the judicial day before trial.

8:47 a.m. Matter concludes.