

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-000707

05/24/2012

HONORABLE MARIA DEL MAR VERDIN

CLERK OF THE COURT
L. Firriello
Deputy

MARKHAM CONTRACTING CO INC

KAREN A PALECEK

v.

PINNACLE POINT DEVELOPERS L L C, et al.

NATHANIEL ROSE

MINUTE ENTRY

9:58 a.m. This is the time set for Oral Argument re Motions *in Limine* and Trial Management Conference. Plaintiff is represented by counsel Karen A. Palacek and Tabitha Myers. Defendants are represented by counsel Nathaniel Rose.

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

Discussion is held. Counsel advise the Court that settlement negotiations are continuing.

Discussion is held re Plaintiff Markham Contracting Co., Inc.'s Motion *in Limine* re Doctrine of Replacement.

The Court has considered the matters presented and arguments of counsel. The Court is persuaded by the Defendant's position and finds that replacement doctrine applies as to First Arizona Savings and Loan Association.

The Court further finds that Ms. Boyle and the settlement statement were timely disclosed as a witness/exhibit and may be used at trial.

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The Court further finds that the Defendant's Third Disclosure Statement was untimely and is excluded.

Court defers ruling at this time as to whether a jury trial or a bench trial will be conducted.

Discussion is held re Trustee's Sale and issue of excess proceeds and unjust enrichment claim. The Court finds in favor of Defendant First Arizona Savings and Loan Association on this issue. The parties may simultaneously brief the issue (no more than 3 pages) not later than **May 30, 2012**. Upon request of the Plaintiff and good cause appearing, the Court will reconsider the issue of excess proceeds.

The parties' Joint Pretrial Statement shall be due not later than **5:00 p.m. on June 1, 2012**.

Exhibits shall be delivered to the Clerk not later than **12:00 p.m. on June 1, 2012**.

IT IS ORDERED affirming Pretrial Management Conference set **June 4, 2012 at 9:30 a.m.** in this division.

IT IS FURTHER ORDERED vacating Three (3) Day Trial set June 4, 2012 at 9:30 a.m. and re-setting same on **June 5, 6 and 7, 2012 at 9:30 a.m.** in this division.

11:02 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.