

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-092744

06/18/2013

HONORABLE EMMET RONAN

CLERK OF THE COURT
K. Gilmet
Deputy

POINTE SOUTH MOUNTAIN RESIDENTIAL
ASSOCIATION, THE

PAUL R NEIL

v.

ERIC A CARLSON, et al.

STEVEN W CHEIFETZ

JACOB A KUBERT

STATUS CONFERENCE
BENCH TRIAL SET
STATUS CONFERENCE SET

Courtroom 205 – South East Facility

9:16 a.m. This is the time set for a telephonic Status Conference. Counsel, Paul R. Neil, is present telephonically on behalf of Plaintiff, Pointe South Mountain Residential Association, who is not present. Counsel, Jacob A. Kubert, is present telephonically on behalf of Defendants, Eric A. Carlson and Patricia Carlson, who are not present.

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

Based on the discussion held regarding the status of the case,

IT IS ORDERED as follows:

1. **TRIAL**

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This matter is set for a **Bench Trial on December 18, 2013 at 9:30 a.m.** in this division.

LENGTH OF TRIAL: 2 DAYS

HONORABLE DAVID K. UDALL
SOUTHEAST ADULT FACILITY
222 EAST JAVELINA
COURTROOM 205
MESA AZ 85210
602-506-5514

THIS IS A FIRM TRIAL SETTING.

NOTE: Effective July 1, 2013, this Division's calendar will be assigned to the Honorable David K. Udall (telephone number: 602-506-5514), located in the Southeast Adult Facility, 222 East Javelina, Courtroom 205, Mesa, Arizona 85210.

Trial days and hours are as follows: Tuesday through Friday from 9:30 a.m. to 4:30 p.m. daily. The Court will take two 15-minute recesses, one in the morning and one in the afternoon. The lunch recess will be from 12:00 p.m. to 1:30 p.m.

2. **EXHIBITS**

A. MARKING EXHIBITS FOR TRIAL

Except illustrative exhibits made during trial, all exhibits are to be exchanged no later than **November 18, 2013**.

Trial counsel are directed to personally meet **no later than December 3, 2013** to discuss the exhibits prior to marking them for trial. Counsel shall attempt to agree on authenticity, foundation and admission of the exhibits to shorten the time spent on exhibits during the trial.

Counsel shall present all exhibits with a written list of brief exhibit descriptions to the Courtroom Clerk **no later than December 11, 2013**. The exhibits will be marked in **consecutive** order -- Plaintiff's will be marked first, Defendant's will be marked second. Placeholders are not used and numbers will not be reserved for exhibits not presented at the date and time specified. Counsel will make sure that they do not bring to the Clerk a Plaintiff's set of exhibits and a Defendant's set of exhibits that include duplicate exhibits. **Counsel should note that depositions are not marked as exhibits.** Counsel shall present original depositions for filing at

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the same time that exhibits are presented. With regard to trial exhibits, counsel are strongly discouraged from marking exhibits they do not anticipate using during trial.

Failure to follow the procedure for submitting trial exhibits may result in the preclusion of that parties' exhibits.

B. DEPOSITIONS

To the extent reasonably possible, depositions should be summarized.

Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading of many pages of testimony.

Videotape depositions shall be edited.

3. **FINAL JOINT PRETRIAL STATEMENT**

The Final Joint Pretrial Statement in accordance with Rule 16(d), A.R.Civ.P., is due in this division by **5:00 p.m. on December 13, 2013.**

In addition to the information required by A.R.Civ.P. Rule 16(d), counsel are to identify in the Joint Pretrial Statement all depositions or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony and the reason for such objections are also to be set forth therein.

Also attached to the Joint Pretrial Statement counsel shall deliver copies of the following:

A. Proposed Findings of Fact and Conclusions of Law and a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.

B. Any trial memoranda (optional) which the parties wish to submit should accompany the Final Joint Pretrial Statement.

4. **MOTIONS IN LIMINE**

Any and all motions *in limine* shall be filed no later than **November 18, 2013**. 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

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which may compel a mistrial.” See also, Ariz. Rules of Evidence, Rule 103(c). Written responses to motions *in limine* shall be filed and hand-delivered to opposing counsel and this Court no later than **December 3, 2013**. Replies shall not be filed. Failure to meet and confer in accordance with Rule 7.2(a), Ariz.R.Civ.P., will result in sanctions.

Any motion *in limine* not timely filed will be deemed waived.

5. **WITNESS AND EXHIBIT LISTS**

The witness and exhibit lists shall contain no surprises. Any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.

Exhibit Procedures

- Depositions are not exhibits and will not be marked as such. Originals are to be delivered to the Clerk prior to trial. Counsel are to use their copies of the depositions as the Court retains the originals for reference.
- A list with a generic description of each exhibit should be provided. The list should contain the case number, caption, scheduled trial date and the party submitting the exhibits.
- Counsel shall provide a list of all exhibits that have been stipulated into evidence.
- Exhibits will be marked numerically and consecutively.
 - Plaintiff(s) exhibits will be marked first followed by Defendant(s).
 - Numbers will **not** be skipped or “**saved**” in anticipation of additional exhibits to be submitted.
 - Subsections of exhibits will be marked as the next available number. Do NOT use subsections of exhibits (ex. 4a or 4.1). Please use the next consecutive number.
- Each exhibit will be clipped or bound if too large to be stapled.
- Exhibits are to be separated by a colored sheet of paper or by a divider sheet.

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- Blow-ups and large items may be used for demonstrative purposes; however, if they are to be marked as an exhibit, a photograph of 8 ½ x 11 size are preferred for marking as an exhibit. Please see the Clerk if there are issues with this.
- Duplicate exhibits will **NOT** be marked.
PLEASE CONFER REGARDING EXHIBITS TO INSURE THERE ARE NO DUPLICATES.
- **ALL EXHIBITS ARE DUE AS LISTED ABOVE – AT THE TIME OF THE TRIAL MANAGEMENT CONFERENCE OR AS ADVISED BY THE COURT**

NOTE: ALL COURT PROCEEDINGS ARE RECORDED BY AUDIO METHOD AND NOT BY A COURT REPORTER. ANY PARTY MAY REQUEST THE PRESENCE OF A COURT REPORTER BY CONTACTING THIS DIVISION THREE (3) COURT BUSINESS DAYS BEFORE THE SCHEDULED HEARING.

IT IS FURTHER ORDERED setting a Telephonic Status Conference on **October 10, 2013 at 9:00 a.m. (Time allotted: 15 minutes)** before:

**HONORABLE DAVID K. UDALL
SOUTHEAST ADULT FACILITY
222 EAST JAVELINA - COURTROOM 205
MESA, AZ 85210**

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 at (602) 506-5514 promptly at the scheduled time.

IT IS FURTHER ORDERED if the parties settle the matter, they shall contact this Division so the hearing can be vacated.

NOTE: ALL COURT PROCEEDINGS ARE RECORDED BY AUDIO METHOD AND NOT BY A COURT REPORTER. ANY PARTY MAY REQUEST THE PRESENCE OF A COURT REPORTER BY CONTACTING THIS DIVISION THREE (3) COURT BUSINESS DAYS BEFORE THE SCHEDULED HEARING.

9:26 a.m. Matter concludes.

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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.