

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-096361

06/07/2016

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT
S. McCoy
Deputy

AUBREY MITCHELL, et al.

ADAM W BARLOW

v.

LIGHTHOUSE MANAGEMENT L L C, et al.

MICHAEL W HERZOG

JOHN M DICARO
BENJAMIN R EID
DAVID C POTTS

**ORAL ARGUMENT/
ORAL ARGUMENT SET**

Courtroom 206 – SEA

11:02 a.m. This is the time set for Oral Argument regarding the following:

- *Defendant Tot Lot Services, Inc. 's Motion for Summary Judgment* electronically filed on February 15, 2016;
- *Plaintiffs' Response to Defendant Tot Lot Services' Motion for Summary Judgment and Plaintiffs' Countermotion for Partial Summary Judgment against Defendants Lighthouse Management, LLC and Pueblo Verde Community Association on the Issues of Non-Delegable Duty and Vicarious Liability* electronically filed on March 4, 2016;
- *Plaintiffs' Controverting Statement of Facts Opposing Defendant Tot Lot Services's Statement of Facts Re: Motion for Summary Judgment* electronically filed on March 4, 2016;

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-096361

06/07/2016

- *Plaintiffs' Statement of Facts in Support of Their Motion to Establish Non-Delegable Duty and Vicarious Liability* electronically filed on March 4, 2016;
- *Defendant Lighthouse Management, LLC and Pueblo Verde Community Association's Response to Defendant Tot Lot Services, Inc.'s Motion for Summary Judgment* electronically filed on March 16, 2016;
- *Defendant Lighthouse Management, LLC and Pueblo Verde Community Association's Response to Defendant Tot Lot Services, Inc.'s Statement of Facts and Supplemental Facts* electronically filed on March 16, 2016;
- *Response of Defendants Lighthouse Management, LLC and Pueblo Verde Community Association to Plaintiffs' Countermotion for Summary Judgment on the Issues of Non-Delegable Duty and Vicarious Liability* electronically filed on April 6, 2016;
- *Response of Defendants Lighthouse Management, LLC and Pueblo Verde Community Association to Plaintiffs' Statement of Facts in Support of Their Motion to Establish Non-Delegable Duty and Vicarious Liability and Additional Facts* electronically filed on April 6, 2016;
- *Defendant Tot Lot Services, Inc.'s Reply in Support of Its Motion for Summary Judgment* electronically filed on April 11, 2016;
- *Plaintiffs' Reply in Support of Their Countermotion for Partial Summary Judgment against Defendants Lighthouse Management, LLC and Pueblo Verde Community Association on the Issues of Non-Delegable Duty and Vicarious Liability* electronically filed on May 9, 2016; and
- *Plaintiffs' Supplemental Statement of Facts in Support of Their Motion to Establish Non-Delegable Duty and Vicarious Liability* electronically filed on May 9, 2016.

Plaintiffs are represented by counsel, Adam W. Barlow. Counsel, Michael W. Herzog, appears on behalf of Defendants, Lighthouse Management, LLC and Pueblo Verde Community Association. Counsel, David C. Potts, appears on behalf of Defendant, ELS Construction, Inc. Counsel, Benjamin R. Eid, appears on behalf of Defendant, Tot Lot Services, Inc.

A record of the proceedings is made digitally in lieu of a court reporter.

Oral argument is presented on *Defendant Tot Lot Services, Inc.'s Motion for Summary Judgment*.

For the reasons set forth on the record,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-096361

06/07/2016

IT IS ORDERED denying *Defendant Tot Lot Services, Inc.'s Motion for Summary Judgment*.

Oral argument is presented on *Plaintiffs' Countermotion for Partial Summary Judgment against Defendants Lighthouse Management, LLC and Pueblo Verde Community Association on the Issues of Non-Delegable Duty and Vicarious Liability*.

For the reasons set forth on the record,

IT IS ORDERED denying Plaintiffs' Countermotion for Partial Summary Judgment.

11:26 a.m. The Court stands at recess.

11:45 a.m. Court reconvenes. Plaintiffs are represented by counsel, Adam W. Barlow. Counsel, Michael W. Herzog, appears on behalf of Defendants, Lighthouse Management, LLC and Pueblo Verde Community Association. Counsel, David C. Potts, appears on behalf of Defendant, ELS Construction, Inc. Counsel, Benjamin R. Eid, appears on behalf of Defendant, Tot Lot Services, Inc.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held regarding the *Motion of Defendants Lighthouse Management, LLC and Pueblo Verde Community Association in Limine to Exclude Testimony of Plaintiff's Witness J. Roger Wood, Esq.* electronically filed April 13, 2016 and the Response thereto.

For the reasons set forth on the record,

IT IS ORDERED directing plaintiffs' counsel to file a Supplemental Response to the *Motion of Defendants Lighthouse Management, LLC and Pueblo Verde Community Association in Limine to Exclude Testimony of Plaintiff's Witness J. Roger Wood, Esq.* no later than **July 1, 2016**. The parties are also directed to notify the Court if a stipulation regarding said Motion is reached.

IT IS FURTHER ORDERED setting this matter for a Status/Scheduling Conference in conjunction with Oral Argument re: *Motion of Defendants Lighthouse Management, LLC and Pueblo Verde Community Association in Limine to Exclude Testimony of Plaintiff's Witness J. Roger Wood, Esq.* on **Wednesday, July 6, 2016, at 10:30 a.m. (45 minutes allotted)**. For the purpose of selecting a trial date if the matter has not settled, counsel shall have their trial calendars available. This matter is set before:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-096361

06/07/2016

The Honorable Robert H. Oberbillig
Maricopa County Superior Court
Southeast Judicial District
222 E. Javelina Avenue
Courtroom 206
Mesa, Arizona 85210
(602) 506.2194

Oral argument shall be limited to 45 minutes, with the time divided equally between the parties. Counsel and the parties, if representing themselves, are to **appear in person**.

All court proceedings are recorded by audio and video method 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 \$140.00 for a half day and \$280.00 for a full day.

PLEASE NOTE: If/when a party files a pleading within 48 hours of a scheduled event, the party should also email same to the Court's judicial assistant at gomezr002@superiorcourt.maricopa.gov and to dellergof@superiorcourt.maricopa.gov.

COUNSEL SHALL UPLOAD AND E-FILE ALL PROPOSED ORDERS IN WORD FORMAT ONLY TO ALLOW FOR POSSIBLE MODIFICATION BY THE COURT.

11:52 a.m. Matter concludes.