

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-017523

06/17/2022

HONORABLE RANDALL H. WARNER

CLERK OF THE COURT
A. Meza
Deputy

ROWLAND SHORT, et al.

ROWLAND SHORT
4525 N 66TH ST UNIT 117
SCOTTSDALE AZ 85251

v.

CASA DEL MONTE INC

NICOLE PAYNE

PAMELA SHORT
4525 N 66TH ST UNIT 117
SCOTTSDALE AZ 85251
JUDGE WARNER

BENCH TRIAL SET

East Court Building – Courtroom # 414

8:46 a.m. This is the time set for virtual Trial Setting Conference. Plaintiffs, Rowland Short and Pamela Short, are present on their own behalf. Defendant, Casa Del Monte, Inc., is represented by counsel, Carlotta L. Turman and Nicole Payne. All appearances are virtual via Court Connect.

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

The Court has reviewed the parties' June 9, 2022 Joint Status Report. Discussion is held regarding the status of the case and the parties' readiness to set trial.

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The Court notes that Defendant has filed a Motion for Summary Judgment on May 27, 2022, which is not yet fully briefed. The Court will either rule or set oral argument after the Motion is fully briefed.

Discussion is held regarding a potential discovery dispute. The Court encourages the parties to confer in attempt to resolve any disputes regarding discovery. If the parties are unable to resolve their disputes regarding discovery, then the parties may file a joint statement of discovery dispute in accordance with Rule 26(d) of the Arizona Rules of Civil Procedure.

Based on the matters presented to the Court,

IT IS ORDERED setting this matter for a **4-day** bench trial on **October 17, 18, 19 and 20, 2022 at 9:30 a.m.** in this division before,

The Honorable Randall H. Warner
Maricopa County Superior Court
East Court Building
101 W. Jefferson
4th Floor, Courtroom 414
Phoenix, AZ 85003
Phone: 602-372-2966
Fax: 602-372-8746

Trial hours and days are normally 9:30 a.m. to 4:30 p.m. (with a lunch recess from noon to 1:30 p.m. and two 15-minute recesses, daily), Monday through Thursday.

IT IS FURTHER ORDERED setting a Final Trial Management Conference for **September 23, 2022 at 10:00 a.m. (time allotted: 1 hour)** in this division. All counsel and self-represented parties must **appear in person** and cannot appear telephonically.

8:57 a.m. Matter concludes.

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 a half-day and \$280 for a full day.

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Based on the trial setting, the Court sets the following deadlines and makes the following orders. The dates set forth in this order are firm dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

DUTIES PRIOR TO THE TRIAL MANAGEMENT CONFERENCE

All motions *in limine* shall be filed **no later than 5:00 p.m. on September 2, 2022**. Written responses to motions *in limine* may be filed no later than 10 calendar days after service of the motion. No replies shall be filed. The Court may hear argument at the final trial management conference or may rule without oral argument. The parties must comply with Ariz. R. Civ. P. Rule 7.2(a) before filing any motion *in limine*. Each side will be limited to filing no more than 5 motions *in limine*. However, either side may file a brief of unlimited length addressing evidentiary issues anticipated to arise at trial.

The parties shall file with the Court **no later than 5:00 p.m. on September 16, 2022**, a **Joint Pretrial Statement**, signed by all counsel (and any self-represented party) and containing the following. **This order modifies the requirements of Ariz. R. Civ. P. 16(f).**

1. **List of Claims.** The Joint Pretrial Statement must contain a list of all claims or causes of action on which a verdict is sought by any party. Such list shall specify (1) the cause of action (e.g., breach of contract, negligence, etc.), (2) each party asserting that cause of action, and (3) each party against whom that cause of action is asserted.
2. **No List of Issues.** The requirements of Ariz. R. Civ. P. 16(f)(2)(A), (B) and (C) are waived. The parties need not prepare a list of stipulations, agreed contested issues or other issues considered material. Disputes over what issues are properly in the case will be decided under Rule 26.1. The parties may, if they wish, submit one or more separate stipulations regarding facts, evidence or other matters.
3. **Final Trial Witnesses.** The Joint Pretrial Statement must include an exhibit entitled Final Trial Witness List, which must list each witness a party expects to call at trial (in person or by deposition) and the day on which they expect to call that witness. If the Court finds that a party unreasonably included witnesses not likely to be called at trial, it may consider appropriate sanctions.
4. **Trial Exhibits.** As required by Rule 16(f)(E), all trial exhibits must be listed in the Joint Pretrial Statement along with objections. The Court typically resolves objections to exhibits at trial, but objections must be listed in the Joint Pretrial Statement to be preserved. If the Court finds that a party unreasonably included exhibits not likely to be used at trial, it may consider appropriate sanctions.

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5. **Deposition Designations.** Deposition designations and objections should not be included in the Joint Pretrial Statement, but must be submitted to the Court three judicial days before the start of trial. The Court will resolve deposition designations as follows: By 4:00 p.m. the day before a party plans to read deposition testimony, that party must provide the Court a hard copy of the deposition transcript with (1) the portions to be read highlighted, (2) any counter-designations highlighted in a different color, and (3) any objections written in the margin. The Court will rule on any objections by the next day. If the party plans to play a video deposition, the transcript must be provided by 4:00 p.m. two days before the deposition will be played.
6. **Other Matters.** The Joint Pretrial Statement must include the matters in Ariz. R. Civ. P. 16(f)(2)(H), (I), (J) and (K).

DUTIES AT TRIAL MANAGEMENT CONFERENCE

At the trial management conference, the parties shall be prepared to discuss:

1. Time limits for opening statements, examination of witnesses and closing arguments.
2. Stipulations for the foundation and authenticity of exhibits.
3. Any special scheduling or equipment issues.

The parties may submit proposed findings of fact and conclusions of law (if a request for findings of fact and conclusions of law has been or will be filed).

The parties are reminded to promptly notify the Court of any settlement pursuant to Rule 5.3(d), Ariz.R.Civ.P.

TRIAL EXHIBITS

Counsel (and any self-represented party) **shall deliver all trial exhibits to the Clerk of the Court no later than 3:00 p.m. on September 23, 2022.**

For electronic and in-person exhibit submission, please visit, <https://www.clerkofcourt.maricopa.gov/services/exhibits-submission>. The webpage will provide instructions and guidance for electronic submission as well as locations for in-person submission of exhibits.

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If filing paper exhibits, please adhere to the following guidelines:

1. Exhibits will be marked consecutively. *The clerk cannot reserve numbers for exhibits that will be provided at a later date.* Any missing exhibits will not be considered and the numbers of all following exhibits will be moved up. If Defendant's exhibits are received prior to Plaintiff's exhibits, the clerk may mark them first with Plaintiff's exhibits following.
2. Original Depositions will not be marked as an exhibit. **Original** depositions to be used for impeachment purposes shall be provided to the clerk on the first day of trial to be hand-filed.
3. Do not submit duplicate exhibits, **it is essential that the parties confer to avoid submitting duplicate exhibits**
4. If large charts or blow-ups are anticipated to be used, please include a small version (or photo) which can be marked as the exhibit. The charts and blow-ups are used for demonstrative purpose only, are not marked as the exhibits, and are returned.
5. Each multiple page exhibit **MUST** be securely fastened together by staple or pronged fasteners. **DO NOT use paper clips, rubber bands, binder clips or submit loose sheets of paper.**
6. Do not put numbers on the exhibits themselves; instead, **use a COLORED sheet with the exhibit number on it.** Place the colored sheet in front of each exhibit, however, **DO NOT staple or paper-clip it to the exhibit itself** (this should be the only loose sheet).
7. The parties are to provide a workable list of exhibits. The list should include a title or description of each exhibit. (See blank sample of the following table as a reference).
8. If media files or video-recordings are anticipated to be submitted for marking, please submit them on **thumb-drives**, not on a CD, and deliver them to the division for marking.

Exhibit No.	Identified By	Description <i>Should be verifiable when viewing the first page of the exhibit</i>	Stipulated in Evidence/Objection

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PLEASE NOTE: Each party shall provide a binder of exhibits for the Court's use. Each exhibit shall be separated by numbered divider tabs.

For additional assistance in preparation of exhibits contact the courtroom clerk at:
Ana.Meza@Maricopa.Gov or (602) 506-8806

NOTICE: Exhibits Marked But Not Offered

Exhibits submitted to the Court for an evidentiary hearing/trial, whether through hard copy or submitted electronically, that are marked as exhibits but are not offered into evidence at the evidentiary hearing/trial will be destroyed following the hearing/trial, unless a party requests that the evidence be returned at the conclusion of the hearing. Such requests must be filed with the Court and served on all parties in advance of the hearing/trial or by no later than the conclusion of the hearing/trial.