

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-015126

07/12/2006

HONORABLE ROBERT E. MILES

CLERK OF THE COURT
K. Ballard
Deputy

FILED: 07/14/2006

EAGLE MOUNTAIN COMMUNITY
ASSOCIATION

WILLIAM F SHORE III

v.

EAGLE MOUNTAIN INVESTORS L L C

WILLIAM A NEBEKER

TRIAL MINUTE ENTRY
DAY 2

9:37 a.m. Trial to a jury continues from July 11, 2006. Plaintiff is represented by counsel, William F. Shore, III. Defendant is represented by counsel, William A. Nebeker and Marcus Tappe. Also present are various members of the Plaintiff Association and an officer representative of the Defendant.

A digital audio and video recording of this proceeding is being made by the "For the Record" recording system in lieu of a court reporter.

Juror #8 (originally Juror #23) is present outside the presence of the remaining jurors. Juror #8 advises the Court and counsel of hardships he will encounter sitting as a juror in this case.

9:41 a.m. Juror #8 is excused from the courtroom; court remains in session.

Court and counsel discuss the comments of Juror #8. Based thereon, the Court excuses Juror #8 from further service in this case.

9:43 a.m. Court stands at recess.

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9:49 a.m. Court reconvenes with respective counsel and the party representatives present. The jury is present (with the exception of the excused juror).

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Plaintiff's case:

Burton Fischer (a/k/a Burt K. Fischer) is sworn and testifies.

10:51 a.m. Court stands at recess.

11:12 a.m. Court reconvenes with respective counsel and the party representatives present. The jury is present.

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Burton Fischer continues testifying.

11:57 a.m. Court stands at recess.

1:30 p.m. Court reconvenes with respective counsel and the party representatives present. The jury is present.

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Burton Fischer continues testifying.

The Court has received a question from the jury. Court and counsel discuss the same outside the hearing of the jury.

The witness testifies further.

FILED: Jury Question (1)

The Court receives additional questions from the jury. Court and counsel discuss the same outside the hearing of the jury.

The witness testifies further.

FILED: Jury Questions (2)

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2:56 p.m. Court stands at recess.

3:17 p.m. Court reconvenes with respective counsel and the party representatives present. The jury is present.

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Burton Fischer continues testifying.

3:53 p.m. The jury is excused for the evening.

3:53 p.m. Court stands at recess.

3:55 p.m. Court reconvenes with respective counsel and the party representatives present. The jury is not present.

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Discussion is held regarding the objections to the Glos report exhibits: Plaintiff's exhibits 89-92, 94, and 97. In that regard, the Court will not permit the narrative portions of the report(s) to come into evidence. With regard to the attachments to the report(s), they may be permissible after review of same by counsel.

Discussion is held regarding the Motion to Strike Defense Witness Duane Hunn. Based thereon,

IT IS ORDERED precluding Mr. Hunn from testifying in this matter.

Counsel shall submit no later than **Monday, July 17, 2006 by 4:00 p.m.** a joint set of jury instructions counsel agree should be given in this case and separate sets of those not in agreement.

4:10 p.m. Court stands at recess until 9:30 a.m. on July 13, 2006.