

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-015126

07/19/2006

HONORABLE ROBERT E. MILES

CLERK OF THE COURT  
T. Melius  
Deputy

FILED: 07/21/2006

EAGLE MOUNTAIN COMMUNITY  
ASSOCIATION

WILLIAM F SHORE III

v.

EAGLE MOUNTAIN INVESTORS L L C

WILLIAM A NEBEKER

TRIAL MINUTE ENTRY  
DAY 6

Prior to beginning of trial, Plaintiff's exhibit 382 through and including 387 are marked for identification.

10:03 a.m. Trial to a jury continues from July 18, 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. The jury is not present.

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.

The Court advises that Juror # 5 will not be present due to illness and is excused from any further consideration of this case. Juror # 4 is not present at this time, Court's staff is attempting to locate.

Oral arguments are presented on Defendants' Rule 50 Motion re Implied Warranty.

**IT IS ORDERED** denying Defendants' Motion regarding Implied Warranty for reasons as stated on the record.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-015126

07/19/2006

Based on that ruling, Plaintiff withdraws all remaining claims except for the consumer fraud and breach of fiduciary duty claims.

Arguments are presented on Defendants' Rule 50 Motion regarding Consumer Fraud.

**IT IS FURTHER ORDERED** denying the Motion regarding Consumer Fraud for reasons as stated on the record.

Arguments are presented on Defendants' Rule 50 Motion regarding Fiduciary Claim.

**IT IS FURTHER ORDERED** denying the Motion regarding Fiduciary Claim for reasons as stated on the record.

10:43 a.m. The jury is now present.

**Defendants' case continues:**

Steven Michael Pritulsky resumes the stand and testifies further.

Plaintiff's Exhibit #387 is received in evidence.

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

The witness testifies further.

FILED: Jury Question (1)

The witness is excused.

Bill Vickers is sworn and testifies.

The witness is excused.

Mark Allen Voigt is sworn and testifies.

The witness is excused

11:55 a.m. Court stands in recess.

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

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2003-015126

07/19/2006

A record of the proceedings is made by audio CD (FTR) in lieu of a court reporter.

David Perry is sworn and testifies.

2:55 p.m. Court stands in recess.

3:19 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

A record of the proceedings is made by audio CD (FTR) in lieu of a court reporter.

David Perry resumes the stand and testifies further.

Defendant's exhibit # 388 is marked for identification.

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

The witness testifies further.

FILED: Jury Questions (3)

David Deatherage is sworn and testifies.

4:29 p.m. Court stands in recess until 9:30 a.m. July 20, 2006.