

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2007-053132

06/27/2008

HONORABLE BRIAN R. HAUSER

CLERK OF THE COURT  
W. Bobrowski  
Deputy

DOMINICK ABATEMARCO

BRIAN M BERGIN

v.

CANTERRA AT SQUAW PEAK  
CONDOMINIUM ASSOCIATION INC, et al.

MARK A HOLMGREN

TRIAL VACATED

The court has determined that its current trial calendar contains numerous trial settings that are in conflict with other trial settings or are no longer needed. The historical method of setting trials on this calendar renders illusory the court's ability to ensure that a trial will start on the date set.

This division has decided to manage the trial calendar in accordance with the practices of the overwhelming majority of civil divisions of the court. That practice dictates that no more than one trial be set on any day, thus providing attorneys and litigants with certainty that the trial, once set, will not be continued due to congestion of the court calendar.

Accordingly, for all trials set September 1, 2008 and after,

IT IS ORDERED vacating the trial date, and any associated final pretrial conference setting and oral argument on motions in limine.

IT IS FURTHER ORDERED that the parties shall submit a Joint Pretrial Memorandum as set forth below.

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The Court will review the Joint Pretrial Memorandum and proposed Scheduling Order prescribed herein. The Court may adopt or modify the discovery and disclosure schedule order and set a scheduling conference for purposes of setting a trial date. If counsel still believe that a pretrial conference is still necessary at this stage of the litigation, they should address the reasons for the need for a pretrial conference in the first paragraph of the Joint Pretrial Memorandum.

If the parties fail to file a timely memorandum, sanctions may issue pursuant to Rule 16(f).

IT IS FURTHER ORDERED:

All counsel are directed to meet personally to discuss all of the matters set forth in Rule 16(b). Counsel shall prepare and file with the Court by **5:00 p.m. on August 1, 2008**, a Joint Pretrial Memorandum, and prepare a proposed order for Discovery and Disclosure deadlines. The proposed order shall include dates for the following items and conform substantially with the attached sample order.

1. **An agreed upon schedule and date for completion of non-expert depositions.** As far as can reasonably be anticipated, each party shall set forth the depositions they anticipate taking and the approximate time required for each; any and all medical examinations which may be required of any of the parties; the person or persons to conduct such examinations; all requests for production; and all tangible evidence to be disclosed or exchanged.
2. **A date for the final disclosure of the identities subject matters and reports of expert witnesses,** and/or to supplement disclosures made to date.
3. **A date or dates for the initial and final disclosure of all non-expert witnesses,** and/or to supplement disclosures made to date.
4. **A date by which all written discovery will be propounded and concluded.** Further, counsel shall set forth any written discovery outstanding and a date when it will be complete.
5. The position of each counsel on whether the Rule 38.1 time limits should be waived.

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6. **A proposed date for a Mandatory Settlement Conference pursuant to Rule 16.1. Alternatively, the parties may propose a deadline by which they will participate in private mediation.**
7. **A date for completion of all discovery, including expert discovery.**
8. **A date by which all dispositive or partially-dispositive motions shall be filed.**
9. **A proposed trial date** agreed upon by all counsel and anticipated length of trial.

If the parties agree as to the dates, they need to only prepare and submit the proposed order attached hereto. If counsel are unable to agree on any of the items set forth in the attached form of order, the reasons for their inability to agree shall be set forth in the Pretrial Memorandum and each shall prepare a separate proposed order. **All proposed deadlines shall be set forth as calendar dates, and not in the form “XX days before trial.”**

IT IS FURTHER ORDERED that counsel shall notify the Court of any agreed-upon extension of any time period provided by the Rules of Civil Procedure. The purpose of this order is not to discourage extensions as a matter of professionalism, but to ensure that no party suffers summary disposition of any issue by virtue of an extension of which the Court is not aware.

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[Proposed] Scheduling Order

The Court having received the parties' Joint Comprehensive Pretrial Conference Memorandum,

IT IS ORDERED entering the following schedule for disclosure as set forth unless the parties obtain written modifications by the Court:

- (1) Initial disclosures shall be exchanged by: **(MM/DD/YYYY)**
- (2) The identities and subject areas of expert testimony shall be disclosed by: **(MM/DD/YYYY)**
- (3) Plaintiff's final expert disclosures shall be served by: **(MM/DD/YYYY)**  
Defendant's final expert disclosures shall be exchanged by: **(MM/DD/YYYY)**  
Rebuttal expert disclosures shall be exchanged by: **(MM/DD/YYYY)**
- (4) Final Non-expert disclosures shall be exchanged by: **(MM/DD/YYYY)**
- (5) Written discovery shall be propounded by: **(MM/DD/YYYY)**
- (6) Dispositive Motions shall be filed by: **(MM/DD/YYYY)**
- (7) Depositions shall be completed by: **(MM/DD/YYYY)**
- (8) Discovery shall be completed by: **(MM/DD/YYYY)**
- (9) Any motions to amend pleadings shall be filed by: **(MM/DD/YYYY)**
- (10) The parties remaining in this action shall participate in comprehensive mediation by **(MM/DD/YYYY)**.

IT IS FURTHER ORDERED setting a Telephonic Status Conference in this matter on [counsel to leave this date blank], (time allotted: 15 minutes), in this Division. Counsel for the Plaintiff shall initiate the phone conference.

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**HONORABLE BRIAN R. HAUSER  
MARICOPA COUNTY SUPERIOR COURT  
NORTHEAST REGIONAL COURT COMPLEX  
18380 N. 40<sup>th</sup> St.  
COURTROOM 109  
PHOENIX, AZ 85032  
602-506-6086 TEL**

IT IS FURTHER ORDERED that in no less than **five days** prior to the Status Conference set herein, the parties shall submit a Joint Statement pursuant to ARCP 16(d) and report to the Court the history and status of the efforts at Alternative Dispute Resolution pursuant to ARCP Rule 16(g).

**DISCOVERY DISPUTES:** In the event of any dispute concerning discovery, counsel are directed to confer pursuant to ARCP 26(g). If such conference is unsuccessful, counsel are directed to initiate a conference call with this Division BEFORE filing a motion to compel or motion for protective order.