

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

CAROLINE BROWN

MARK J DEPASQUALE

v.

PINNACLE RESTORATION L L C, et al.

BRIAN D MYERS

THOMAS P BURKE II

TRIAL/TRIAL MANAGEMENT CONFERENCE SET

Courtroom 202-Old Courthouse

10:16 a.m. This is the time set for telephonic status conference. Plaintiff is represented by counsel, Mark Depasquale. Defendant Pinnacle Restoration, LLC is represented by counsel, Brian Myers. Defendant Camelback Village Improvement Association is represented by counsel, Thomas Burke, II.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Discussion is held regarding how counsel wish to proceed in light of the Court of Appeals decision regarding Pinnacle Restoration. The Court is advised that Pinnacle Restoration will be filing a Petition for Review and the remaining parties wish to proceed forward to trial.

Discussion is held regarding Plaintiff's previously filed Motions in Limine.

IT IS ORDERED Plaintiff shall re-file its narrowed Motion in Limine by July 12, 2013. Defendant's Responses to both motions in limine are due by August 2, 2013. Once received, the Court will either rule on the pleadings or set an oral argument.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

Discussion is held regarding trial date. Based thereon, the Court enters the following orders:

1. This matter is set for a **4-day Jury Trial on December 10, 11, 12, and 13, 2013 at 9:30 a.m.** in this division. **THIS IS A FIRM TRIAL DATE.** Additional orders in this regard shall be contained later in this minute entry.

A record of the proceedings will be made by CD in lieu of a court reporter. If a CD is requested, please obtain a form from the Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center.** Attach the receipt showing payment of the fee and present both the receipt and the form to the courtroom clerk or bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.** The CD-R disk may be viewed using Microsoft's Media Player or JAVS' CaseViewer. "CaseViewer" is available for free from Jefferson Audio Visual Systems at:

<http://www.javs.com/downloads/programs.htm>

Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court's digital video recording system before requesting a court reporter. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.

If a court reporter is required, the Court must receive a written request at least 3 court days before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

2. A **Final Pretrial Management Conference** is set on **November 4, 2013 at 10:00 a.m.** in this division. **All lead trial counsel are required to personally appear.** The Court has set aside 1 hour for said hearing.

The joint pretrial statement in accordance with Rule 16(d), A.R.C.P., is **due by 5:00 p.m., on October 28, 2013. Plaintiff shall provide a draft of the pretrial statement to Defendant(s) no later than October 21, 2013.** In addition to the information required by Rule 16(d), counsel are to identify in/with the joint pretrial

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

statement all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth.

10:36 a.m. Matter concludes.

Pursuant to the foregoing trial setting, the Court enters the following additional orders:

1. No later than **October 28, 2013**, counsel (or the parties) shall file:
 - A. Requested jury instructions, and any voir dire questions counsel request that the Court ask. The Judge would appreciate counsel providing a copy of the jury instruction requests on CD, in Microsoft Word;
 - B. Any trial memoranda (optional), which will be in lieu of post-trial briefs unless otherwise requested by the Court at the conclusion of the trial; and
 - C. 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).
2. Counsel shall meet at least **five (5) days before** the pretrial management conference to complete the form that is attached to this minute entry. Each attorney will list the witnesses that will be called and estimate the time for his or her direct examination of his or her witnesses and his or her cross-examination of opposing witnesses. In addition, counsel will estimate the time they will need for opening statements and closing arguments. The form must be brought to the Court at the pretrial management conference. The Court will use the form to predict the length of the trial for the jurors and to direct counsel to follow the time limits estimated. **IN PREPARING THIS FORM, BEAR IN MIND THAT ONE TRIAL DAY ALLOWS FOR APPROXIMATELY FIVE (5) HOURS OF ACTUAL TRIAL TIME.**

ATTACHMENT: Witness Information Form

3. Prior to submitting the exhibits for trial to the division, **counsel shall meet and confer** to determine that there are no duplicate exhibits from either party. Duplicate exhibits and original depositions will not be marked. At least **two weeks prior to trial (or anytime prior)**, counsel or their knowledgeable assistants shall contact the clerk of this division at **602-506-8946** to discuss the procedure for the submission of the exhibits. No later than **one week before trial (5 business days)**, all exhibits shall

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

be submitted to the clerk of the division for marking unless otherwise approved by the clerk. The exhibits will be marked numerically and serially - Plaintiff's first, Defendant's second. Please advise the clerk if any exhibits may be received directly in evidence by providing a signed stipulation as to said exhibits (**lack of an objection to an exhibit in the Joint Pretrial Statement does not mean the exhibit automatically is received in evidence**). If large demonstrative exhibits are submitted for marking, a smaller version of the exhibit must also be provided in case the exhibit is received into evidence. **NOTE: Every exhibit must be securely bound by a staple, prong or in a binder of some sort. Exhibits not securely bound or bound with binder clips or rubber bands will not be accepted.**

4. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.
5. The witness and exhibit lists shall contain no surprises; any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.
6. All documents and pleadings described above shall be delivered or telefaxed to opposing counsel on the date they are delivered to the Court.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

WITNESS INFORMATION FORM

Please note that there are approximately 5 hours of trial time which includes two 15-minute breaks and 1½ hours for lunch. It generally takes about a half day to select a jury unless it's a long trial.

VOIR DIRE EXAMINATION

TIME ESTIMATE FOR:	
PLAINTIFF(S) VOIR DIRE	
DEFENDANT(S) VOIR DIRE	

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-008669

07/01/2013

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF		DEFENDANT
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	

TOTAL ESTIMATED TRIAL TIME: 4 days
Estimate should not exceed **20** total hours

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.