

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

JUDGE DOUGLAS L. RAYES

CLERK OF THE COURT
T. Springston
Deputy

PENELOPE JOHNSON

CHRISTOPHER A LAVOY

v.

POINTE SOUTH MOUNTAIN RESIDENTIAL
ASSOCIATION, THE

BRIAN W MORGAN

PAUL R NEIL

**TRIAL SETTING
MATTER TAKEN UNDER ADVISEMENT**

Central Court Building – Courtroom 704

1:32 p.m. This is the time set for Oral Argument on the Motions listed below. Plaintiff is present with counsel, Christopher A. Lavoy. Defendant is represented by counsel, Paul R. Neil.

- Defendant's Motion for Partial Summary Judgment, filed March 29, 2013;
- Plaintiff's Motion for Partial Summary Judgment, filed May 6, 2013;
- Plaintiff's Motion for Preliminary Injunction, May 6, 2013;
- Defendant's Cross-Motion for Partial Summary Judgment on Cable Issue, filed June 7, 2013.

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

Oral argument is presented.

IT IS ORDERED denying Plaintiff's Motion for Preliminary Injunction.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

IT IS FURTHER ORDERED granting Defendant's Motion for Partial Summary Judgment as to the trust issue and denying the remaining issues in the Motion excluding the court home exterior maintenance issue which shall be decided at trial.

IT IS FURTHER ORDERED denying Plaintiff's Motion for Partial Summary Judgment excluding the court home exterior maintenance issue which shall be decided at trial.

IT IS FURTHER ORDERED taking Defendant's Cross-Motion for Partial Summary Judgment on Cable Issue under advisement. Plaintiff's counsel shall file their Response by **5:00 p.m. July 19, 2013**. A ruling shall be issued after the Response is filed.

IT IS FURTHER ORDERED setting a Trial to the Court, on the issue of court home exterior maintenance issue, on **August 12, 2013 at 9:30 a.m.** before:

**The Honorable Douglas L. Rayes
Maricopa County Superior Court
Central Court Building
201 West Jefferson
Courtroom 704
Phoenix, AZ 85003
Phone: (602) 506-0816**

This is a FIRM TRIAL setting. Trial Length: Two (2) days to the Court. Trial days will be: August 12-13, 2013.

Trial days are normally 9:30 a.m. to 4:30 p.m., Monday through Thursday, with lunch from 12:00 to 1:30 p.m.

IT IS FURTHER ORDERED that a Final Trial Management Conference (FTMC) is set for **August 1, 2013 at 10:00 a.m. (time allotted: 1 hour)** in this division. Counsel and *pro per* parties shall appear *in person* for the conference. Exhibits that do not require foundation shall be moved into evidence at the end of the FTMC.

Exhibits are due to the division by **12 noon July 26, 2013** to allow time for marking before the FTMC.

IT IS FURTHER ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ. P., is due in this division by **5:00 p.m. July 26, 2013**.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

IT IS FURTHER ORDERED discovery shall be completed by **July 28, 2013**, per request of counsel. All responses to written discovery are due within **10 days after service**.

2:56 p.m. Matter concludes.

LATER:

IT IS ORDERED resetting the deadline for discovery cutoff to **July 26, 2013**.

IT IS ORDERED with the JPTS, Counsel shall deliver to this division, copies of the following:

A. A jointly-completed time and witness estimate list. (A sample form is incorporated in this order). The Court will use the list to predict the length of the trial and to direct counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause.

B. Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. The proposed Findings of Fact and Conclusions of Law will be submitted in hard copy in WORD. If proposed Findings of Fact and Conclusions of Law are not received, the request shall be deemed waived.

C. Counsel are to identify in/with the memorandum 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.

D. All dispositive motions must be filed ninety (90) days before trial.

E. The Court will hear and rule upon objections to exhibits at the FTMC. The rulings will be stated on the record. All objections to known exhibits and witnesses must be made before or during the Final Trial Management Conference or will be deemed to have been waived.

IT IS FURTHER ORDERED that counsel, at the FTMC, shall be prepared to discuss:

1. Time limits in opening statements, examination of witnesses and closing arguments.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

2. Stipulations for the foundation and authenticity of exhibits.
3. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of videotaped depositions.
4. Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading in of pages of testimony.
5. Any special scheduling or equipment issues.
6. Status of settlement of the case.

F. COUNSEL WHO WILL BE THE TRIAL LAWYERS ON THE CASE ARE REQUIRED TO ATTEND THE FINAL TRIAL MANAGEMENT CONFERENCE.

G. FAILURE OF TRIAL COUNSEL TO ATTEND THE FINAL TRIAL MANAGEMENT CONFERENCE MAY RESULT IN PERSONAL SANCTIONS.

EXHIBIT GUIDELINES

- Exhibits shall be marked serially by number, plaintiff's first; defendant's exhibit numbers will begin where plaintiff's numbers end;
- Confer with the other party to eliminate duplicate exhibits before presenting to the clerk;
- Submit a written list or inventory describing each exhibit; descriptions should be concise and can be as simple as "letter," "e-mail," or "photo";
- Do not skip numbers, or describe exhibits as "blank" or "withdrawn"; do not "reserve" numbers for items not submitted to the clerk;
- Do not submit exhibits with subparts (e.g. Exhibit 1a, 1b, 1c);
- Staple or otherwise secure each individual exhibit so that pages do not become separated;
- Separate exhibits by a colored sheet of paper with the exhibit number written on front;
- If an exhibit is too heavy or large for a hanging file folder, place it in a binder;
- Do not mark depositions as exhibits; original depositions may be submitted to the division clerk to be filed and will be available for use during the trial;
- Provide a separate copy of exhibits, in a binder with numbered tabs, to the court to be referenced by the judge during trial (okay to deliver judge's copy day of trial);
- Contact the clerk at (602)506-7857 if you have questions regarding exhibits.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-017609

07/01/2013

BEFORE FILING ANY DISCOVERY MOTION, parties are instructed to contact this division for an informal teleconference. Division contact information: Judicial Assistant, Mary Farmer, phone: (602)506-0816.

For copies of hearings or trial proceedings recorded, please call Electronic Records Services at (602)506-7100. Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. 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.

Pursuant to Part 1, Chapter 6, Section 1-602 D (4)(a), of the Arizona Code of Judicial Administration, **if a court reporter is present**, the court reporter's record is the official record and requests for transcripts shall be made by contacting the court reporter at (602)506-6100 or email request to lineburgc@superiorcourt.maricopa.gov.

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.