

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2012-050858

07/24/2013

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT  
M. MINKOW  
Deputy

LABADI FAMILY LIMITED PARTNERSHIP, et ROGER T HARGROVE  
al.

v.

BELLASERA COMMUNITY ASSOCIATION JASON E SMITH  
INC

**BENCH TRIAL SET**  
**PRETRIAL MANAGEMENT CONFERENCE SET**  
**ORAL ARGUMENT SET (Motions In Limine)**

8:32 a.m. Courtroom 108 NE. This is the time set for Telephonic Status Conference Re: (1) whether further discovery and deadlines need to be set; and (2) to set a trial in this matter. Appearing telephonically on behalf of Plaintiffs is counsel, Roger T. Hargrove. Appearing telephonically on behalf of Defendant is counsel, Lindsey Stearns, appearing on behalf of counsel, Jason E. Smith.

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

The parties state their positions.

Defendant having no objection,

IT IS ORDERED GRANTING Plaintiffs' request to file a second amended complaint to include a claim for quiet title. Plaintiffs shall file their second amended complaint no later than August 7, 2013.

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IT IS FURTHER ORDERED:

- The parties are precluded from filing any dispositive motions, absent leave of Court.
- Amended disclosure statements are due by September 30, 2013.
- Final disclosures shall be exchanged by February 28, 2014.
- Depositions shall be completed by March 28, 2014.

IT IS FURTHER ORDERED setting this matter for a Trial to the Court on **April 21 and 22, 2014, from 8:30 a.m. to 4:30 p.m. each day** in this Division at Northeast Regional Court Center, 18380 North 40th Street, Courtroom 108, Phoenix, Arizona 85032.

THIS IS A FIRM TRIAL SETTING. If counsel have any pre-existing conflicts with said trial date, they shall notify the Court, in writing, within five (5) days from today's date.

IT IS FURTHER ORDERED setting a Oral Argument Re: Motions In Limine and Pretrial Management Conference on **April 11, 2014 at 10:00 a.m. for 1 hour** in this Division. The lead trial counsel for each party is required to attend. Self-represented litigants are also required to attend. Except as stated above, parties are not required to attend. Failure of any trial counsel or any self-represented litigant to attend the Pretrial Management Conference may result in sanctions.

IT IS FURTHER ORDERED that any and all motions *in limine* shall be filed no later than **March 7, 2014** and shall be hand-delivered to opposing counsel. Such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972) (“The primary purpose of a motion *in limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial”). *See also*, Ariz. R. Evid. Rule 103(c). Written responses to motions *in limine* shall be filed no later than **March 14, 2014** and hand-delivered to opposing counsel. Replies shall not be allowed absent leave of Court. **Prior to filing a motion *in limine*, the parties must meet and confer in accordance with Ariz.R.Civ.P. Rule 7.2(a) to attempt to resolve issues to be raised by such motion, and any motion *in limine* must include a certification that they have done so.** Failure to meet and confer prior to the filing of a motion *in limine* may result in sanctions.

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At the Pretrial Management Conference, counsel for each party and any self-represented litigants shall be prepared to discuss:

- A. Stipulations and objections regarding witnesses and exhibits.
- B. Agreed-upon deposition summaries and excerpts from deposition transcripts and/or videotaped depositions.
- C. Any special witness scheduling, interpreter or equipment-related issues.
- D. The allocation of trial time per party.
- E. Status of settlement efforts.

IT IS FURTHER ORDERED no less than five (5) judicial days prior to the Pretrial Management Conference, the parties shall file:

- A. A Joint Pretrial Statement meeting the requirements of Rule 16(d), Arizona Rules of Civil Procedure. Witness and exhibit lists shall contain no surprises. Any information revealed for the first time on the witness or exhibit lists will be inadmissible at trial. Objections, if any, to witnesses and/or exhibits, and the reasons for such objections, are also to be set forth. **Any objections not so included are waived.** The Pretrial Statement also shall identify all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, 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. The Court also shall be provided with copies of those parts of any such testimony to which objection is made. **Any objections not so included are waived.**
- B. A statement by each party identifying all expert witnesses, the opinions of said experts, and a description of the factual/substantive basis for each such opinion. Opinions of experts shall not be supplemented at trial.
- C. 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.
- D. A completed Witness Information Form (see attached). Counsel for each party and any self-represented litigants shall meet **no later than 7 days prior to the Pretrial Management Conference** to complete the Form. The parties shall set forth the name of each witness and the estimated time required for direct and

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cross-examination. Time estimates also shall be set forth for opening statements and closing arguments.

**\*\*\* ATTORNEYS AND ASSISTANTS---PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY\*\*\***

Except for illustrative exhibits made during trial, lists of all exhibits to be offered at trial shall be exchanged **no later than 30 days prior to trial**. Trial counsel and self-represented litigants (“the parties”) are directed to personally meet **no later than 14 days prior to trial** to exchange trial exhibits and discuss the exhibits prior to submitting them to the Court. At this meeting, the parties’ shall attempt to agree on authenticity, foundation, and admission of the exhibits to shorten the time spent on exhibits during the trial.

**At the time of the Pretrial Management Conference, the parties shall present to the courtroom clerk all exhibits they will be introducing at trial.** Counsel shall present all exhibits with a written list of brief exhibit descriptions to the Clerk. Each exhibit shall be clipped or bound if too large to be stapled. Exhibits are to be separated by a colored sheet of paper or by a divider sheet. An enlargement of an exhibit may be used at trial for demonstrative purposes. However, an 8-1/2 x 11 size copy of the enlargement must be submitted to be marked as the exhibit. The enlargement will not be marked and will be returned to counsel at the end of trial. The exhibits will be marked by the Clerk in consecutive order: Plaintiff’s exhibits will be marked first; Defendant’s exhibits will be marked second. Exhibits are assigned numbers in a serial fashion. Placeholders will not be accepted and exhibit numbers will not be reserved for exhibits not presented at the Pretrial Management Conference. **The parties shall ensure that there are no duplicate exhibits.** Failure to follow the procedure for submitting trial exhibits may result in the exclusion of that party’s exhibits at trial.

**NOTE: Counsel shall advise the clerk, by signed stipulation or on the record, which exhibits may be marked directly into evidence. Original depositions shall be provided to the clerk prior to trial. Please note depositions are not marked as exhibits but are retained by the clerk for record purposes. The depositions will be available to counsel and the Court during the trial.**

**NOTE: Counsel are advised that if they intend to use laptop computers and/or the Court’s document camera during trial, they should make an appointment to meet with FTR personnel (602-372-7876) at least one week in advance of trial to ensure compatibility of their equipment and obtain answers to technical questions.**

**Counsel also shall provide, on the first day of trial, a JOINT notebook containing copies of ALL marked exhibits for the Court’s use during trial.**

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**NOTE:** All Court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting the Division (602-372-0762) three (3) court days before the scheduled proceeding.

Attachment: Witness Information Form

**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.

8:50 a.m. Matter concludes.

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**WITNESS INFORMATION FORM**

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				
5				
6				

DIRECT, REDIRECT & CROSS TOTAL: \_\_\_\_\_

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				
5				
6				

DIRECT, REDIRECT & CROSS TOTAL: \_\_\_\_\_

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TOTAL WITNESS TIME ESTIMATE: \_\_\_\_\_

TIME ESTIMATE FOR:	PLAINTIFF		DEFENDANT
OPENING STATEMENT			
CLOSING ARGUMENT	1 <sup>st</sup> :	2 <sup>nd</sup> :	