

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

HON. DAWN M. BERGIN

CLERK OF THE COURT
C. Fitch
Deputy

ROSEVIEW HOMEOWNERS ASSOCIATION

NIKITA VERMA PATEL

v.

DANIELA C MIHAILA, et al.

JONATHAN A DESSAULES

JURY TRIAL SET

East Court Building – Courtroom 713

9:32 a.m. This is the time set for a status conference for the purpose of setting this matter for trial. All parties appear telephonically. Appearing on behalf of the Plaintiff is counsel, Mark A. Holmgren. Appearing on behalf of the Defendants is counsel, Jonathan A. Dessauls.

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

Discussion is held on Defendants' Notice of Appeal from Arbitration and Motion to Set for Trial, filed on June 18, 2015.

Counsel inform the Court that a settlement conference may be beneficial in this case.

The Court advises counsel that she will solicit another civil Judge to conduct a settlement conference.

For the reasons set forth on the record,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

IT IS ORDERED as follows:

1. Setting a **Trial Management Conference** for **October 2, 2015 at 11:00 a.m.** in this division. Oral argument on motions *in limine* (if any) will be heard at this time. All counsel must appear in person and cannot appear telephonically.
2. Setting a **3-day Jury Trial** for **October 27-29, 2015, beginning at 9:30 a.m.** **October 27, 2015** is reserved for jury selection and **October 29, 2015** is reserved for jury deliberation.

Before:

**THE HONORABLE DAWN BERGIN
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W JEFFERSON
7TH FLOOR, COURTROOM 713
PHOENIX, AZ 85003
602-372-2961 TEL**

9:50 a.m. Matter concludes

DUTIES PRIOR TO THE TRIAL MANAGEMENT CONFERENCE

3. **MOTIONS IN LIMINE.** All motions *in limine* shall be filed no later than **5:00 p.m. on September 2, 2015**, and 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. 103(c).

The movant shall file a separate motion for each request and not combine more than one motion in a single filing. A written response to a motion *in limine* may be filed no later than ten (10) calendar days thereafter. Motions *in limine* shall not exceed three pages in length and responses to motions *in limine* shall not exceed two pages. No replies shall be filed. The Court may rule on motions *in limine* without oral argument.

The parties must comply with Rule 7.2(a) Ariz.R.Civ.P., prior to filing any motion *in limine*. Any motion *in limine* filed without the movant having first complied with Rule 7.2(a) will be stricken by the Court.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

If the parties have a discovery dispute that needs to be addressed, counsel for the movant shall contact the Court's Judicial Assistant and all other counsel to advise them of his/her request for a telephonic hearing. Each party shall thereafter fax or email to the Court's Judicial Assistant a one-page summary of the dispute. Once the Court receives a summary from each party, the Court's Judicial Assistant will contact the parties to schedule a telephonic conference.

4. **JOINT PRETRIAL STATEMENT.** Counsel shall file with the Court no later than **5:00 p.m. on September 18, 2015**, a **Joint Pretrial Statement** signed by all counsel.
 - a) **Deposition Designations:** In addition to the information required by Rule 16(d), counsel shall at the Trial Management Conference provide to the Court copies of any deposition transcripts to be read to the jury or played by videotape. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.
 - b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the Joint Pretrial Statement shall include an exhibit titled: **Final Trial Witness List**. This list shall contain the name of each witness a party actually intends to call at trial, the day on which they intend to call each witness and the estimated time needed for direct, cross and re-direct examination.
5. **JURY INSTRUCTIONS; VOIR DIRE QUESTIONS.** Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall file with the Court, with their Joint Pretrial Statement, copies of:
 - a) Proposed *voir dire* questions.
 - b) A joint set of agreed-upon preliminary and final jury instructions and **proposed forms of verdicts**.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

- c) Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329; 85 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

Recommended Arizona Jury Instructions (RAJI) need not be typed and may be requested in the following manner: RAJI 3d Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed. Each instruction should cover only one subject.

Counsel shall send all proposed jury instructions and verdict forms to this Division's Judicial Assistant in Word format prior to the Trial Management Conference.

Any jury instructions not filed with the Court together with the Joint Pretrial Statement will be deemed waived by the Court, unless the Court concludes that good cause exists for the untimely submission.

DUTIES AT TRIAL MANAGEMENT CONFERENCE

- 6. At the Trial Management Conference, counsel shall be prepared to discuss:
 - a) Time limits in *voir dire*, opening statements, examination of witnesses and closing arguments.
 - b) Stipulations for the foundation and authenticity of exhibits.
 - c) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and *voir dire*.
 - d) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 - e) Use of short-trial or summary jury trial.
 - f) Any special scheduling or equipment issues.
- 7. One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(c), Ariz.R.Civ.P.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

8. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

If a court reporter is required, the Court must receive a written request at least 48 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

PROCEDURES FOR SUBMITTING EXHIBITS TO BE MARKED

Exhibits are due to the clerk no later than 5:00 p.m. on October 2, 2015. The parties shall contact the division clerk at 602-506-1485 at least two weeks prior to trial to make arrangements for delivering exhibits.

Counsel shall submit two sets of their exhibits, one for marking and one for the bench. The bench copy shall be submitted in a binder(s) with number tab dividers.

Depositions will NOT be marked as exhibits. If you plan to read from a deposition or use the deposition for impeachment purposes, you will need to supply an ORIGINAL to the courtroom clerk for filing. Copies will not be filed with the clerk.

- A list with a generic description of each exhibit should be provided. The list should contain the case number, the caption, scheduled trial date and the party submitting the exhibits.
- Exhibits will be marked numerically and consecutively. If your list refers to an exhibit and it is not provided at the time of marking, the numbers of all following exhibits will be moved up. In addition, if duplicate exhibits are submitted, the clerk will remove the duplicate and the numbering will be adjusted accordingly. To avoid confusion during trial, it is essential that counsel avoid submitting duplicate exhibits. *The clerk cannot reserve numbers for exhibits that will be provided at a later date.* Exhibits will be marked as they are received. If Defendant's exhibits are received prior to Plaintiff's exhibits, the Clerk may mark them first with Plaintiff's exhibits following.
- Each exhibit shall be stapled. If an exhibit is too large to be stapled, that exhibit shall be **securely fastened in order to prevent page separation during witness/jury review. (Note: Black binder clips are NOT considered securely fastened. I suggest you use the silver two-prong fasteners).**

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-002237

07/08/2015

- Exhibits should be separated by a colored sheet of paper or a tabbed divider sheet. The colored sheet or tabbed divider shall reflect the number of the exhibit and should be placed on top of the exhibit.
- Counsel are strongly discouraged from marking exhibits they do not anticipate using during trial. Counsel shall only submit those exhibits to the Clerk they know will actually be used during trial. If counsel wish a document to be used during the course of trial, that document can be marked as an exhibit at that time.
- Blow-ups and large items may only be used for demonstrative purposes. You may bring them to court to use during trial; however, if you would like them to be marked as an exhibit, please submit an 8 ½ x 11 photo of the item.