

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2020-010651

07/18/2022

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT  
D. Charbagi  
Deputy

LAKWOOD ESTATES HOMEOWNERS  
ASSOCIATION

QUINTEN T CUPPS

v.

MICHAEL A URBANO

ERNEST COLLINS JR.

CHRISTOPHER L ENOS  
ANDREW APODACA  
JUDGE RYAN

MINUTE ENTRY

**PLEASE NOTE: There is a "LATER" attached to this minute entry.**

9:08 a.m. This is the time set for a Trial Setting Conference. Plaintiff, Lakewood Estates Homeowners Association is represented by counsel, Quinten T. Cupps. Defendant/Third-Party Plaintiff, Michael A. Urbano is represented by counsel, Ernest Collins. Third-Party Defendants, AAM, LLC, Lakewood Community Association, and Sandra Smith is represented by Andre Apodaca. All parties appear virtually and/or telephonically via Court Connect/Microsoft Teams.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held.

Based on the matters presented,

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**IT IS ORDERED** that all responses to the pending motions shall be filed, no later than **August 12, 2022**. All replies are due by **September 2, 2022**.

**IT IS FURTHER ORDERED** setting a virtual **Oral Argument Hearing** on **September 9, 2022 at 10:15 a.m. (time allotted: 1 hour)** in this division regarding the pending motions.

The hearing(s) will be held by phone/video conference via the Court Connect platform. Please join my meeting from your computer, tablet or smartphone.

[Click here to join the meeting](#)

[www.tinyurl.com/jbazmc-cvj10](http://www.tinyurl.com/jbazmc-cvj10)

You can also dial in using your phone (audio only)  
+1 (917) 781-4590  
Phone Conference ID: 803 526 856#

More information regarding Court Connect can be found at:  
<https://superiorcourt.maricopa.gov/court-connect/>

**IT IS FURTHER ORDERED** setting this matter for a 4-Day **Trial to a Jury** commencing on **March 27, 2023 at 9:00 a.m.** in this division before:

**HONORABLE TIMOTHY RYAN  
MARICOPA SUPERIOR COURT  
EAST COURT BUILDING  
101 W. JEFFERSON STREET  
8<sup>th</sup> FLOOR-COURTROOM 814  
PHOENIX, AZ 85003  
(602) 372-3801**

**NOTE:** This is a firm trial setting. Motions to continue based on lack of preparation will ordinarily not be granted. Trial will not proceed on Fridays as Fridays are law and motion days for this division.

**The trial days are: March 27, 28, 29 and 30, 2023.**

Trial days are normally Monday through Thursday from 9:30 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m., with a mid-morning and mid-afternoon break.

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Note that the Court reserves for itself **one day** for jury selection, preliminary and final instructions, and jury deliberations.

**IT IS FURTHER ORDERED** setting a **Final Trial Management Conference** on **March 3, 2023 at 8:30 a.m.** (time allotted: **15 minutes**) in this division.

The hearing(s) will be held by phone/video conference via the Court Connect platform. Please join my meeting from your computer, tablet or smartphone.

[Click here to join the meeting](#)

[www.tinyurl.com/jbazmc-cvj10](http://www.tinyurl.com/jbazmc-cvj10)

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**IT IS FURTHER ORDERED** all Exhibits to be offered at trial shall be delivered before **3:00 p.m.**, on **March 14, 2023**. For exhibit submission, please visit, <https://www.clerkofcourt.maricopa.gov/services/exhibits-submission>. The webpage will provide instructions and guidance as well as locations for in-person submission of exhibits. Exhibit Guidelines for this division are attached herein.

**NOTICE:** Exhibits Marked But Not Offered: Exhibits submitted to the court for an evidentiary hearing/trial, whether through hard copy or submitted electronically, that are marked as exhibits but are not offered into evidence at the evidentiary hearing will be destroyed following the hearing/trial, unless a party requests that the evidence be returned at the conclusion of the hearing. Such requests must be filed with the Court and served on all parties in advance of the hearing or by no later than the conclusion of the hearing.

9:25 a.m. Matter concludes.

**LATER:**

Due to a conflict with the Court's calendar,

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**IT IS ORDERED** vacating the **Final Trial Management Conference** set on March 3, 2023 at 8:30 a.m. and resetting same to **March 3, 2023 at 8:45 a.m. (time allotted: 15 minutes)** in this division.

The hearing(s) will be held by phone/video conference via the Court Connect platform. Please join my meeting from your computer, tablet or smartphone.

[Click here to join the meeting](#)

[www.tinyurl.com/jbazmc-cvj10](http://www.tinyurl.com/jbazmc-cvj10)

You can also dial in using your phone (audio only)  
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Based upon the foregoing trial setting,

**DUTIES PRIOR TO FINAL TRIAL MANAGEMENT CONFERENCE**

A Joint Pretrial Statement (“JPTS”) must be filed no later than **February 21, 2023**. **Plaintiff must deliver its portions of the JPTS to all other parties at least 20 days before the due date; all other parties must deliver their portions no later than 15 days before the due date. Ariz. R. Civ. P. 16(f)(1).**<sup>1</sup> In addition to the materials required by Arizona Rule of Civil Procedure 16(f)(2), counsel shall meet before the Final Trial Management Conference to discuss and prepare the following, which shall be filed with or included in the JPTS:

- A. Proposed *voir dire* questions.
- B. A completed Witness Information Form (attached), setting forth a list of all witnesses each party intends to call at trial in the order in which the party intends to call the witness, together with the estimated time needed for direct, cross, and redirect examinations.

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<sup>1</sup> The Court stresses the importance of the JPTS and the lawyers’/parties’ obligations to cooperate in preparing it without gamesmanship or delay. If necessary, the Court will hold telephonic or in-person hearings with lead trial counsel to address delays preparing the JPTS.

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- C. A joint set of agreed-upon jury instructions and verdict forms. Each party shall provide separate sets of any requested instructions that have not been agreed upon. (Please review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), and the RAJI Civil Statement of Purpose and Approach before requesting non-RAJI instructions.) Recommended Arizona Jury Instructions (RAJI (Civil)) need not be retyped but you may list them by name and number, such as:

RAJI Preliminary 1 - - Duty of Jurors  
RAJI Standard 2 - - Burden of Proof  
RAJI Negligence 1 - - Violation of Statute

NON-RAJI OR MODIFIED RAJI INSTRUCTIONS must be typed in Word format, numbered consecutively, one per page, with legal authority in support of the instruction. A thumb drive with, or emailed version of, any non-RAJI or modified RAJI instructions shall be provided to this Division.

- D. A brief statement of the claims for inclusion in RAJI Preliminary 14 – Claims Made and Issues To Be Proved.
- E. A stipulated summary of the case for the court to read during *voir dire*. If the parties cannot agree, then provide separate summaries. The Court encourages counsel in the strongest terms to agree on a non-evocative summary.
- F. A list, by page and line numbers, of all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, including designations of testimony that a party believes ought in fairness to be introduced under Arizona Rule of Civil Procedure 32(a), together with any testimony to be offered by an opposing/other party. **Any objection not included is waived.** Jurors generally prefer narrative summaries or brief excerpts of questions and answers, so the parties should confer and prepare agreed-upon summaries. The order after the trial management conference will include a protocol for providing these deposition transcripts to the Court.
- G. A sequentially numbered list of all marked exhibits containing a brief description of each exhibit and any objections. **Any objection not included**

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**is waived.** Catchall exhibit categories (*e.g.*, “all disclosure statements,” “all pleadings in this matter”) are improper.

- H. A single list in Word format of the names of the parties, party representatives, potential witnesses, experts, and any other person the parties want the Court to determine if potential jurors know. List the names in alphabetical order. Counsel must cooperate to create the list; do not provide separate lists. The parties must deliver this list to this division no later than 8:30 a.m. the morning of the Final Trial Management Conference. The Court will read this list to the panel during *voir dire*.

**At the Final Trial Management Conference, counsel and any self-represented party who will try the case shall appear and be prepared to discuss and resolve:**

- A. Allocation of trial time among the parties and, if appropriate, time limits for *voir dire*, opening statements, witness examinations, and closing arguments;
- B. Stipulations regarding witnesses testimony and the admission of exhibits;
- C. Jury instructions, juror notebooks, and verdict forms;
- D. Deposition summaries and excerpts from depositions including objections thereto;
- E. Scheduling, equipment, or interpreter issues;
- F. Status of settlement negotiations;
- G. Motions *in limine*; and
- H. Other matters addressed in the JPTS.

One day’s jury fees will be assessed against the parties (evenly divided) unless the Court is notified of settlement by 2:00 p.m. on the judicial day before trial. Counsel are reminded to promptly notify the Court of any settlement pursuant to Rule 5.3(d)

**PLEASE READ CAREFULLY THE FOLLOWING DUTIES PRIOR TO TRIAL**

**Discovery Disputes:**

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If a discovery dispute needs judicial intervention, the parties must first meet and confer (telephonically, if not in person). Absent resolution, counsel must jointly call Judicial Assistant, Brittany Sarracino at 602-372-3801 and obtain a date and time for a telephonic conference. The JA will try to set a time within the next five judicial days. You must file a statement of the issue and your position, not to exceed three pages (1.5 pages per side). If a written discovery request is involved, such as an interrogatory or request for production, provide the discovery request and response. [This differs from Rule 26(d)(2).] Email this submission to Judicial Assistant, Brittany Sarracino at least two judicial days before the conference at: [Brittany.Sarracino@JBAZMC.Maricopa.Gov](mailto:Brittany.Sarracino@JBAZMC.Maricopa.Gov)

**Motions in Limine:**

The granting or denial of a motion *in limine* turns on whether the admission of evidence reaches the level of reversible error or a mistrial. Motions *in limine* are not granted “except upon a clear showing of non-admissibility.” Do not file motions denominated as “*in limine*” that are late-filed motions for summary judgment. *Each side is limited to five motions in limine without leave of Court to file more.*

**1. Page Limit and Format:** Neither the motion *in limine* nor the response may exceed **five pages**, including the caption. Motions *in limine* must be consecutively numbered in the caption identifying the party filing it and the subject of the motion (*e.g.*, “Defendant’s Motion in *Limine* No. 1 Re: Insurance Agreement”) and address one discrete subject per motion. Do not respond to more than one motion *in limine* in each response.

Any motion *in limine* or response to such a motion should begin with a simple declarative sentence that identifies the evidence that is the subject of the motion, with the understanding that the broader the scope of the evidence to be excluded, the less likely it is that the Court will grant a motion *in limine*. The remainder of the motion or response should then explain why a mistrial or reversible error would or would not result if the motion is denied, with citations to authority that have reached the same conclusion in the same or similar circumstances. If the motion is unable to explain why its denial would result in a mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

**2. Rule 7.2:** File motions *in limine* in accordance with Arizona Rule of Civil Procedure 7.2. Before filing any motion *in limine*, the parties must meet and confer to attempt to resolve the issues. Motions *in limine* must include a certification that counsel conferred **at least telephonically, if not in person.**

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**3. Deadlines:** The deadline for motions *in limine* is **30 days** before the final pretrial management conference. Responses are due **15 days** after service (no added mail time), and no replies should be filed unless requested.

**4. Under Advisement:** Although motions *in limine* will be considered as quickly as the court's schedule permits, they will not be taken under advisement any sooner than 15 days before the start of the trial, regardless of when they are filed. If the parties believe that a ruling on such a motion early in the case will facilitate settlement, they should notify this division (by telephone at (602) 372-3801 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

**Miscellaneous Issues:**

Any requests for interpreters, court reporters or video conference must be made at least two weeks prior to your hearing date.

If you ever email this division, you must copy all parties involved in the case.

**NOTE:** All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for up to three hours and \$280 for any hearing in excess of three hours. This fee does not include preparation of transcripts.

If the parties are not familiar with the courtroom's technology, they are encouraged to set up an appointment with the court's technology liaison at (602) 372-3082.

ATTACHED: Witness Information Form  
Exhibit Guidelines

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**WITNESS INFORMATION FORM**

**WITNESSES FOR PLAINTIFF:**

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

PLAINTIFF'S TOTAL WITNESS TIME ESTIMATE: \_\_\_\_\_

**WITNESSES FOR DEFENDANT:**

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

DEFENDANT'S TOTAL WITNESS TIME ESTIMATE: \_\_\_\_\_

TIME ESTIMATE FOR:	PLAINTIFF(S)		DEFENDANT(S)
VOIR DIRE			
OPENING STATEMENT			
CLOSING ARGUMENT	1 <sup>st</sup> :	2 <sup>nd</sup> :	

PLAINTIFF'S TOTAL TIME ESTIMATE: \_\_\_\_\_

DEFENDANT'S TOTAL TIME ESTIMATE: \_\_\_\_\_

NOTE: if there are multiple parties on the same side who are represented by different attorneys, then each party being represented by different attorneys shall fill out his/her own time estimates.

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**EXHIBITS GUIDELINES**

1. Exhibits will be marked consecutively. *The Clerk cannot reserve numbers for exhibits that will be provided at a later date.* Any missing Exhibits will not be considered and the numbers of all following Exhibits will be moved up. If Defendant's Exhibits are received prior to Plaintiff's Exhibits, the Clerk may mark them first.
2. Original Depositions will not be marked as an Exhibit. **Original** depositions to be used for impeachment purposes shall be provided to the Clerk on the first day of trial to be hand-filed.
3. Do not submit duplicate Exhibits, **it is essential that counsel confer to avoid submitting duplicate Exhibits.**
4. If large charts or blow-ups are anticipated to be used, please include a small version (or photo) which can be marked as the Exhibit. The charts and blow-ups are used for demonstrative purpose only, are not marked, and are returned to counsel.
5. Each multiple page exhibit **MUST** be securely stapled, binder clipped (only if staple does not hold), or secured with a paper file fastener. Binders are acceptable only if none of the above can securely hold the Exhibit. **DO NOT use paper clips or submit loose sheets of paper.**
6. Do not put numbers on the Exhibits themselves; instead, **use a Number Tab Divider.** Place the divider in front of each Exhibit, however, **DO NOT staple or paper-clip it to the Exhibit itself** (this should be the only loose item).
7. Counsel are to provide a workable list of Exhibits. The list should include a title or description of each Exhibit. (See blank sample of the following table as a reference).

<b>Exhibit No.</b>	<b>Identified By</b>	<b>Description</b> <i>Should be verifiable when viewing the first page of the exhibit</i>

8. A bench copy of the Exhibits shall also be provided for the Court's use during trial.
9. **The parties are strongly discouraged from marking Exhibits they do not anticipate offering during trial.**

For additional assistance in preparation of Exhibits contact the courtroom clerk at: **(602) 372-1153.**