

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-020236

08/28/2006

HON. PAUL A KATZ

CLERK OF THE COURT  
W. Bobrowski  
Deputy

ASTRAGAL CONDOMINIUM UNIT OWNERS    JOHN F MCGUIRE  
ASSOCIATION

v.

ASTRAGAL L L C, et al.

WENDY N WEIGAND

TIMOTHY J BOJANOWSKI  
TIMOTHY ALLEN BUDD  
ADAM B CAMPBELL  
KRISTA LEE FLETCHER  
MICHAEL J FRAZELLE  
HOPE N KIRSCH  
JAMES K KLOSS  
PAUL S KULAR  
RINA K RAI  
RICHARD L RIGHI  
N PATRICK HALL  
DANIEL A BEATTY  
GARY H BURGER  
CHARLES D ONOFRY

TRIAL RESET

3:09 p.m. This is the time set for Status Conference. Plaintiff is represented by counsel, John F. McGuire, who appears telephonically. Defendants/Third Party Plaintiffs are represented by counsel, Wendy Weigand. R.A.P.I. is represented by counsel, Timothy A. Budd. Landa & Assoc. are represented by counsel, James K. Kloss. Statewide Lighting of Arizona is represented

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-020236

08/28/2006

by counsel, Mike J. Frazelle. Cohaco Bldg. Spec. is represented by counsel, Patrick Hall. Mesa Fully Formed is represented by counsel, Daniel A. Beatty. Warren Hunter Builders is represented by counsel, Krista L. Fletcher. Cohaco Bldg. Spec. and Quality Builders are represented by counsel, Adam B. Campbell. Willman & Sanetra and Universal Underground are represented by counsel, Paul Kular. Maricopa Plumbing and Holmes Halley are represented by counsel, Timothy Bojanowski. Air-Zona Systems Engr. is represented by counsel, Gary H. Burger. Central Valley Specialties, Structures, Inc., Faith Plumbing and Diversified Drywall are represented by counsel, Rina Rai. Century Roofing is represented by counsel, Richard Righi. Irriscape, Hatfield Reynolds and RKS Electric are represented by counsel, Charles D. Onofry. Trussman, Inc. is represented by counsel, Hope N. Kirsch, who appears telephonically.

A recording of this proceeding is being made by CD (FTR) in lieu of a court reporter.

Discussion is held regarding request for trial continuance.

**IT IS ORDERED** vacating the Final Pretrial Conference and Oral Argument on Motions in Limine set for February 5, 2007 and the Trial set for February 20, 2007.

**IT IS FURTHER ORDERED** extending the stipulated deadline for requested amendments to the pleadings to September 15, 2006.

**IT IS FURTHER ORDERED:**

1. This matter is set for trial to a jury on **June 26, 2007 at 8:30 a.m.**

Estimated length of trial is: **20 days**.

**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 two weeks from today's date.

Setting **Oral Argument on Motions in Limine and a Final Pretrial Conference for June 11, 2007 at 8:30 a.m. (time allotted: 1 day).**

2. The joint pretrial statement in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due by **5:00 p.m. on May 29, 2007**. In addition to the information required by Rule 16(d), counsel are to identify in/with the joint pretrial 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. **Exhibits for trial shall be consecutively numbered**

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-020236

08/28/2006

**and presented to the Clerk for marking in accord with the joint pretrial statement. Please DO NOT place exhibits in a notebook when submitting them to the Court.**

**Along with the joint pretrial statement**, Counsel shall deliver to this division, 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 for the jurors 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. Counsel are reminded that, excluding breaks, a typical jury trial day is approximately four and a half hours.

3. Motions in limine shall be due no later than **May 29, 2007**. Said motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 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."

4. Responses to motions in limine shall be due no later than **June 5, 2007**. No replies shall be filed.

5. No less than five (5) judicial days prior to trial, 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 IBM-compatible double-sided, high density 3.5 inch diskettes, 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.

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).

6. All motions (except motions in limine) shall be filed no later than **February 26, 2007** so they can be scheduled, briefed, argued and decided prior to trial.

7. **At least one week before trial**, the trial lawyers shall make an appointment for themselves or their knowledgeable assistants to meet with the Clerk of this division (602-372-7725) to present all exhibits and a list of exhibit descriptions. All trial exhibits shall have been exchanged prior to that time. **No duplicate exhibits shall be presented for marking. If either**

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-020236

08/28/2006

**party fails to comply with the steps for marking exhibits, that party's exhibits may be precluded from being marked at trial. Please DO NOT place exhibits in a notebook when submitting them to the Court.**

8. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.

9. 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.

10. All documents and pleadings described above shall be hand-delivered, telefaxed or e-mailed to opposing counsel on the date they are delivered to the Court.

**TIME ESTIMATES FOR TRIAL**

CAUSE NUMBER \_\_\_\_\_

CASE CAPTION \_\_\_\_\_

PLAINTIFF'S COUNSEL \_\_\_\_\_

DEFENDANT'S COUNSEL \_\_\_\_\_

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

**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

DEFENDANT'S	DIRECT	CROSS	REDIRECT
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SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-020236

08/28/2006

WITNESSES	EXAMINATION	EXAMINATION	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

3:37 p.m. Hearing concludes.

***E-Courtroom Policies***

Courtroom 111 is an “e-courtroom” and provides state of the art equipment for case presentation.

The e-courtroom does not have a court reporter present. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court's digital recording system before requesting a court reporter. If a court reporter is required, the Court must receive a written request at least 72 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

Do not attempt to set up the equipment by yourself! In addition, please do not unplug, move, or in any way alter any of the equipment, microphones, cameras, etc. in the courtroom.