

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-013188

07/30/2007

HONORABLE JOHN A. BUTTRICK

CLERK OF THE COURT
T. Melius
Deputy

CRAIG EARLY, et al.

STEPHEN L TUNNEY

v.

TATUM RANCH HOMEOWNERS
ASSOCIATION, et al.

BOB J MCCULLOUGH

ALTERNATIVE DISPUTE
RESOLUTION - CCC

**COMPREHENSIVE PRETRIAL CONFERENCE
TRIAL SETTING MINUTE ENTRY**

IN CHAMBERS: 4:00 p.m. This is the time set for Comprehensive Pretrial Conference. Plaintiff is represented by counsel, Stephen L. Tunney. Defendant is represented by counsel, Bob J. McCullough.

No court reporter is present.

A Comprehensive Pretrial Conference is conducted.

THIS IS A TRIAL SETTING ORDER. PLEASE READ CAREFULLY FOR COMPLIANCE.

IT IS ORDERED as follows:

1. Setting this matter for **Trial to a Jury at 9:30 a.m., on March 27, 2008**, before

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The Honorable John A. Buttrick
Maricopa County Superior Court
Central Court Building, Courtroom 704
201 West Jefferson Street
Phoenix, AZ 85003
PHONE: 602-506-0971

Estimated length of trial: Four (4) Days.

THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE BASED ON LACK OF PREPARATION WILL ORDINARILY NOT BE GRANTED.

2. A Final Pretrial Conference is set for **March 10, 2008 at 11:30 a.m.**

DUTIES PRIOR TO THE FINAL PRETRIAL CONFERENCE

3. **DISCLOSURE, DISCOVERY AND MOTIONS**

- A. **Expert Witnesses (simultaneous disclosure):** All parties shall have exchanged a formal written designation and disclosure of name, subject matter, address, resume and opinions of **all trial experts by 5:00 p.m., September 30, 2007.**
- B. **Discovery Cut-Off:** All discovery shall be completed **by 5:00 p.m., November 30, 2007.**
- C. **Rule 26.1:** All parties shall have exchanged up-to-date Rule 26.1 Supplemental Disclosure Statements including a disclosure of all final expert witness opinions **by 5:00 p.m., December 14, 2007.** No information disclosed after this date may be used at trial absent court order on motion and affidavit. Such information must be seasonably disclosed on an ongoing basis pursuant to Rule 26.1 **prior** to this date.
- D. **Pretrial Motions.** All pretrial motions, other than Motions in Limine, shall be filed **no later than 5:00 p.m., December 14, 2007.**

4. **SETTLEMENT CONFERENCE.** The parties shall participate in a mandatory Settlement Conference. This case is referred to the court's Alternative Dispute Resolution for the appointment of a judge *pro tempore* to conduct a settlement conference. Counsel and/or the

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parties will receive a minute entry from ADR appointing the judge *pro tempore*. Counsel and any "pro per" parties will contact the appointed judge *pro tempore* to arrange the date, time and location for the settlement conference. The judge *pro tempore* is requested to conduct a settlement conference not later than **November 30, 2007**. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office.

IT IS FURTHER ORDERED the parties (and insurance adjusters) must personally attend and participate in the Settlement Conference. The Settlement Conference must be held and the parties must participate in good faith even if no settlement is expected.

5. MOTIONS IN LIMINE. All Motions in Limine shall be filed no later than 5:00 p.m., **February 11, 2008**. 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). A written response to a Motion in Limine may be filed no later than ten (10) days thereafter. The court may rule on Motions in Limine without oral argument. No replies shall be filed.

6. JOINT PRETRIAL STATEMENT. **Before** the Final Pretrial Conference, counsel shall deliver to the trial judge **by March 5, 2008** a copy of the **Joint Pretrial Statement** signed by all counsel.

Deposition Summary: In addition to the information required by Rule 16(d), counsel shall at the Final Pretrial Conference provide to the Court copies of any deposition transcripts to be read to the jury. 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.

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.

7. JURY INSTRUCTIONS; VOIR DIRE QUESTIONS. No less than one (1) week before the Final Pretrial Conference, counsel shall meet and agree on as many proposed jury

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instructions as possible. Three judicial days before the Final Pretrial Conference, counsel shall deliver to the trial judge, with their Joint Pretrial Statement, copies of:

1. Proposed voir dire questions.
2. A joint set of agreed-upon preliminary, and final jury instructions and **proposed forms of verdicts**.
3. 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.

DUTIES AT FINAL PRETRIAL CONFERENCE

8. At the Final Pretrial Conference, counsel shall be prepared to discuss:
 1. Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
 2. Stipulations for the foundation and authenticity of exhibits.
 3. Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
 4. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 5. Use of short-trial or summary jury trial.
 6. Any special scheduling or equipment issues.
9. Counsel shall call the division clerk at least one week before trial to make arrangements for marking exhibits. The exhibits will be marked serially as they are listed in the

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Joint Pretrial Statement -- Plaintiff's first, Defendant's second. Please advise the clerk, by signed stipulation or on the record referring specifically to the Joint Pretrial Statement, which exhibits may be marked directly into evidence.

10. 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 Ariz.R.Civ.P. 5.1(c).

Matter concludes.

ELECTRONIC ("E") COURTROOM

A record of the proceedings may be made by videotape in lieu of a court reporter. (**See Notice below**) Should an official transcript be required, you may request that the Court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the Court's video-recording system before requesting a court reporter.

If a court reporter is required, a written request must be received by the Court at least 48 hours before the hearing.

NOTICE

New Fee for Copies of Electronically Recorded Proceedings

Effective Monday, January 27, 2003, a fee of \$20.00 will be charged for each copy of superior court proceedings digitally recorded and provided on compact Disc (CD) and for each copy of a superior court proceeding provided on videotape. The fee is due when the CD or videotape is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable
to: Clerk of the Superior Court.

Blank, unused CDs and videotapes will not be accepted in lieu of payment.

Beginning Monday, January 27, 2003, the pick up location for CD or videotape copies of superior court proceedings recorded in downtown Phoenix will be the court's Self Service Center located in the Law Library on the first floor of the East Court Building. Fees will be collected at the Self Service Center. Copies of superior court proceedings recorded at the court's Southeast Facility in Mesa and at the court's Northwest Facility in Surprise may be picked up, and fees paid, at the Self Service Centers at those locations.

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Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, 602-506-7100 or kcrensa@superiorcourt.maricopa.gov

Request for Daily Copy of Electronically Recorded Proceedings

Obtain a form from the courtroom clerk or from the Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee at the Self Service Center. Attach the receipt showing payment of fee and present both the receipt and the form to the courtroom clerk or bailiff. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.