

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2002-008702

09/17/2004

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT  
D. Whitford  
Deputy

FILED: 09/22/2004

MONTANA DEL SOL CONDOMINIUM  
ASSOCIATION

JOYCE J KAPSAL

v.

JWE SPRING OAKS LLC, et al.

JILL ANN HERMAN

JACK G BARONE  
STEVEN R BARTELL  
WILLIAM H DOUGLAS  
ANDREW M FEDERHAR  
DOUGLAS H FITCH  
JOHN T GILBERT  
MICHAEL W HERZOG  
BRADLEY R JARDINE  
JASON M KELLY  
JOSEPH A KULA  
DAVID E MCDOWELL  
ANDREW PESHEK  
JONATHAN D SCHNEIDER  
GARY M SUNDBERG  
DENNIS I WILENCHIK  
ROBERT H WILLIS  
JOHN H CLINE  
DANIEL P COLLINS  
ADAM B CAMPBELL  
CHRISTY M THOMPSON  
M DUNCAN SCOTT  
DANIEL E FREDENBERG  
LAWRENCE J FELDER  
RYAN J LINDER

**PRETRIAL CONFERENCE**

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9:25 a.m. This is the time set for a Pretrial Conference.

**Appearances:**

- Plaintiff Montana Del Sol Condominium Association is represented by counsel Joyce Kapsal.
- Defendant JWE Spring Oaks, LLC. is represented by counsel John Cline.
- Third-Party Defendant Hiltys International, Inc is represented by counsel Adam B. Campbell.
- Third-Party Defendant Rock Island Corporation d/b/a Jordan Window & Door. and Ace Masonry Company, Row and Bunch are represented by counsel Douglas H. Fitch.
- Third-Party Defendant Construction 70, Inc and Third-Party Defendant Hart Plumbing of Arizona. are represented by counsel Christy Thompson.
- Third-Party Defendant Michie Concrete, Central Valley Specialities, Inc. and Parra Drywall, Inc. are represented by counsel Jack Barone.
- Defendant/Third-Party Plaintiff Creekstone Builders, Inc. is represented by counsel David E. McDowell.
- Third-Party Defendant Kenro Turner Construction, Inc. is represented by counsel Lawrence Feldre.
- Third-Party Defendant United Floor Coverings and Interiors, Inc. is represented by counsel Ryan Linder.
- Third-Party Defendants Catalina Roofing & Supply, Inc., Hilty's International, Inc. and United Subcontractors, Inc., d/b/a Mesa Insulation Specialists. are represented by counsel M. Duncan Scott.
- Third-Party Defendants Noel Corporation Plastering Stucco and Delta Plastering are represented by counsel Daniel Fredenberg.
- Third-Party Defendants Rondo Pools, Inc. and Parra Drywall, Inc. are represented by counsel Jason Kelly.

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- Third-Party Defendants Dave Wilson Nursery is represented by counsel Daniel Collins.

The case status is discussed.

The parties are scheduled for mediation on November 5, 2004.

Counsel for Third-Party Defendant Kenro Turner Construction, Inc. presents the Court with a Notice of Change of Judge.

**IT IS ORDERED** denying the Request for Change of Judge for the reasons stated on the record.

**IT IS FURTHER ORDERED** setting oral argument on **December 10, 2004 at 2:00 p.m.** on the following motions:

- Defendant/Third-Party Plaintiff Creekstone Builders, Inc.'s Motion to Strike
- Defendant/Third-Party Plaintiff Creekstone Builders, Inc.'s Motion for Summary Judgment
- All other pending Motions for Summary Judgment

**Before:**

The Honorable Kenneth Fields  
Maricopa County Superior Court  
East Court Building  
Courtroom 414  
Phoenix, AZ 85003  
PHONE: 602-506-2060  
**(ALLOTTED TIME: 1 Hr.)**

**IT IS FURTHER ORDERED** affirming the date for trial to a jury of **February 23, 2005, at 9:00 a.m.** (ALLOTTED TIME: 5 weeks)

**LET THE RECORD REFLECT** that motions in limine and other trial motions will be addressed on the first day of trial.

**IT IS FURTHER ORDERED** that Discovery must be completed by close of business on **December 17, 2004.**

**IT IS FURTHER ORDERED** that all dispositive motions must be filed by close of business on **December 17, 2004.**

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**IT IS FURTHER ORDERED** setting a final **Pretrial Management Conference** for **January 7, 2005 at 9:00 a.m.**

**Joint Pretrial Statement**

The Joint Pretrial Statement (JPTS), in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due in this Division by **five days prior to the Pretrial Management Conference**. Counsel are to notify the Court at that time if an interpreter or any special equipment will be needed during trial.

In addition to the information required by the Arizona Rules of Civil Procedure Rule 16(d), counsel are to identify in the JPTS 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 and the reasons for objections to such testimony, if any, are also to be set forth.

Also, with the JPTS, counsel shall deliver to this Division, copies of the following:

Proposed voir dire questions.

A joint set of agreed-upon preliminary and final jury instructions are to be submitted on disk in Word format.

Separate sets of requested instructions that have not been agreed upon are to be submitted on disk in Word format. Please read Rosen v. Knaub, 175 Ariz. 329, 857 P.2d 381 (1993); and the RAJI Civil 3d Statement of Purpose and Approach before preparing the request for non-RAJI instructions.

Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.

In trial by jury, the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of voir dire.

**IT IS FURTHER ORDERED** setting Oral Argument on any new Motions for Summary Judgment and any dispositive motions for **February 4, 2005 at 9:00 a.m.**

9:55 a.m. Conference concludes.

**ELECTRONIC ("E") COURTROOM**

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A record of the proceedings may be made by videotape in lieu of a court reporter. 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.

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