

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-051147

09/07/2007

HONORABLE ROBERT C. HOUSER

CLERK OF THE COURT
R. Tomlinson
Deputy

VINCENT PAUL HOSTLER, et al.

ANDREW R ALEX

v.

SCOTTSDALE PUEBLOS APARTMENTS G P
INC, et al.

JONATHAN D SCHNEIDER

WILLIAM H DOYLE

**TRIAL SETTING ORDER
(WITH PRE-TRIAL MANAGEMENT CONFERENCE)**

10:05 a.m. In chambers. This is the time set for a Comprehensive Status Conference. All parties appear telephonically. Appearing on behalf of the Plaintiffs is Andrew Alex. Appearing on behalf of the SPA Defendants is Katherine Cooper for Jonathan Schneider. Appearing on behalf of Defendant Payne is Kenneth Welsh for William Doyle.

Court reporter is not present.

Discussion is held.

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

IT IS ORDERED setting this matter for a 4-day jury trial commencing on **March 10, 2008¹** at **9:30 a.m.** before:

¹ One day's jury fees will be assessed unless the court is notified of settlement by 2:00 p.m. on the judicial day before trial.

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HON. ROBERT HOUSER
Judge of Superior Court of Arizona
Northeast Regional Court Center
18380 N. 40th Street
Courtroom #110
Phoenix, Arizona 85032
(602) 506-5424

THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE ORDINARILY WILL NOT BE GRANTED.

Trial days are normally 9:30 a.m. to 4:30 p.m., Monday through Thursday.

IT IS FURTHER ORDERED that all dispositive motions shall be filed not later than 120 days prior to trial so they may be briefed, scheduled, argued and decided prior to trial. **All motions in limine shall be accompanied by written certification that counsel have met and conferred in accordance to A.R.C.P. 7.2.** Motions in *limine* must meet the test of *State v. Superior Court*, 108 Ariz. 39 (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). Each side may file one motion in *limine* not to exceed 15 pages and not containing more than five separate subjects. Motions not filed in accordance with this order will not be considered.

IT IS FURTHER ORDERED that the following rules shall apply to all depositions conducted in this action unless otherwise ordered by the Court:

- A. No objections shall be made except as follows:
 - i. Object to the form of the question.
 - ii. Object, privileged under the [applicable] privilege.
- B. No speaking objections shall be allowed. If, but only if, the questioner asks for the basis of an objection to the form of the question a brief explanation shall be given.
- C. If a privilege objection is made, the particular question shall not be answered without subsequent court order. The deposition shall proceed subject to reconvening if the court should later overrule the objection. Fees, costs and other sanctions may be imposed for groundless privilege objections.

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- D. Attorneys shall not interrupt witnesses. Lengthy compound questions shall be avoided.
- E. The length of any deposition shall not exceed four (4) hours (excluding breaks) without the agreement of all counsel or a prior order of the court.
- F. There shall be no attorney-client conferences between the witness and his/her attorney while any question is pending. There shall be no such conferences during the question sessions of the deposition.
- G. Unless agreed by all parties, any commenced deposition shall proceed on a business day until completed unless suspended by any party pursuant to Rule 30(d), Ariz. R. Civ. P.

IT IS FURTHER ORDERED setting a Final Pretrial Management Conference for **February 29, 2008 at 8:30 a.m. (30 minutes)**.

At the PTMC, counsel who will try the case shall appear and be prepared to discuss and resolve where applicable:

- A. Time limits for *voir dire*, opening statements, witness examinations and closing arguments. Direct examinations shall not exceed 1 hour in length without leave of court. Cross-examinations shall not exceed 30 minutes in length without leave of court. Redirect examinations shall not exceed 15 minutes in length without leave of court. Opening statements shall not exceed 30 minutes in length per side without leave of court. Closing arguments shall not exceed 1 hour in length per side without leave of court. *Voir dire* shall not exceed 10 minutes per side without leave of court.
- B. Stipulations and objections regarding witnesses and exhibits. If time permits, the court will rule on objections.
- C. Jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements, *voir dire* and verdict forms.
- D. Agreed-upon deposition summaries and excerpts from depositions including objections thereto.

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- E. Scheduling, equipment or interpreter issues.
- F. Status of settlement efforts.
- G. Motions in *limine* and other pending motions.
- H. Use of short-trial or summary jury trial.
- I. Other matters addressed in the updated joint pretrial statement.

IT IS FURTHER ORDERED a joint pretrial statement (JPTS) addressing at least all of the items set forth in Rule 16(d), Ariz. R. Civ. P., **shall be filed three (3) judicial days before the PTMC.** The following shall be filed with the JPTS:

- A. Proposed *voir dire* questions.
- B. A list to be read to the jury with names of all witnesses who may testify.
- C. A set of agreed-upon jury instructions.
- D. Separate sets of requested instructions that have not been agreed upon. (Review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the Recommended Arizona Jury Instructions (RAJI) Civil 4th “Statement of Purpose and Approach” before requesting non-RAJI instructions.) RAJI’s need not be typed and may be requested in the following manner: RAJI Civil 4th Preliminary—Duty of Jurors or by use of the jury instruction and verdict request forms contained in RAJI Civil 4th. Non-RAJI instructions should be typed. Each instruction should cover only one subject.
- E. A stipulated, brief summary of the case, which the court can read at the outset of *voir dire*.
- F. Proposed findings of fact and conclusions of law (if a request for findings has been or will be filed).
- G. All deposition or other transcribed testimony to be used at trial including Rule 106 additions. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony and the grounds for such objections are also to be set forth.

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All exhibits shall be exchanged 30 days before trial. Duplicates will not be marked; therefore counsel shall confer regarding exhibits to avoid any duplication. All objections to exhibits not set forth in the JPTS shall be deemed waived except for good cause. **At least ten judicial days prior to the Final Pretrial Management Conference, counsel or their knowledgeable assistants shall call the division clerk at (602) 372-7734 to discuss procedures for marking exhibits.** Original depositions are provided to the clerk for the record and are not marked as exhibits.

IT IS FURTHER ORDERED all exhibits shall be provided to the division clerk at the time of the Final Pretrial Management Conference, **February 29, 2008.**

10:10 a.m. Hearing concludes.

E-Courtroom Policies

Courtroom 110 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. CD’s of the proceedings are available to purchase for viewing and/or transcribing.

If a court reporter is required, the court must receive a separate 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.

ATTACHED: Time Estimates Form.

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CAUSE NUMBER _____

CASE CAPTION _____

PLAINTIFF'S COUNSEL _____

DEFENDANT'S COUNSEL _____

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

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

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CASE CAPTION:
TIME ESTIMATES

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
