

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016976

09/09/2013

HON. MARK F. ACETO

CLERK OF THE COURT
M. Scott
Deputy

MICHAEL MERLIE, et al.

STEVEN W CHEIFETZ

v.

VAL VISTA LAKES COMMUNITY
ASSOCIATION, THE, et al.

SCOTT CARPENTER

ROBERT A FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611
LOIS M FOLLMER
1349 E SEA GULL DR
GILBERT AZ 85234-2611

**BENCH TRIAL SETTING
FINAL PRETRIAL CONFERENCE SETTING**

IT IS ORDERED AS FOLLOWS:

TRIAL

This matter is set for a Bench Trial on **February 10, 2014 at 9:00 a.m.** before:

THE HONORABLE MARK F. ACETO
SUPERIOR COURT OF ARIZONA
SOUTHEAST COURTHOUSE
COURTROOM 203
222 E. JAVELINA
MESA, AZ 85210

Estimated length of trial: **1-2 days.**

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FINAL PRETRIAL CONFERENCE

This matter is set for Final Pretrial Conference on **January 17, 2014 at 3:00 p.m.**

ADDITIONAL ORDERS

IT IS FURTHER ORDERED as follows:

Motions in Limine. Rule 7.2, ARCP, applies to any motion in limine to be filed in this case.

Compliance with Rule 16(d). The parties must comply with Rule 16(d), ARCP, except for the portions relating to jurors, voir dire, jury instructions, and verdict forms.

Elements of Claims or Defenses. (A) As an attachment to the Joint Pretrial Statement, any party asserting a claim or affirmative defense must submit a Memorandum setting forth the following regarding each claim or affirmative defense: (1) the elements (i.e. proof requirements)¹, (2) whether some burden of proof other than preponderance applies, and (3) the legal authority supporting the foregoing. (B) In the event an opposing party takes the position that anything stated in the above referred-to Memorandum is incorrect, that party must file no later than ten calendar days before trial an Opposing Memorandum which sets out (1) what portion of the Memorandum the party disagrees with, and (2) the legal authority which supports this position. Because the Court will be relying on these Memoranda, failure to timely submit an Opposing Memorandum will be deemed to be a waiver of the right to contest the elements of a claim or defense.

Witness Information Form. The parties must jointly prepare a Witness Information Form in the form specified below. In addition to the names of witnesses, the parties must provide estimates of the length of each witness's testimony. The Witness Information Form must be filed as an attachment to the Joint Pretrial Statement.

Findings by the Court. Any party requesting that the Court make specific determinations pursuant to Rule 52(a), ARCP, must do both of the following: (1) request in a timely Joint Pretrial Statement that the Court make "Findings of Fact and Conclusions of Law" and (2) submit to the Court no later than ten calendar days before trial proposed "Findings of Fact and Conclusions of Law". If any part of this order is not

¹ This obligation may be satisfied by citing an applicable RAJI.
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complied with, any request for “Findings of Fact and Conclusions Of Law” will be deemed waived.

Court reporter requests. Any party requesting that a court reporter be present for trial must include this request in the joint pretrial statement.

Presence at Final Pretrial Conference. Lead trial counsel and any self-represented party must be present in court for the Final Pretrial Conference.

Marking exhibits. No later than the deadline for the joint pretrial statement, each party must present to the clerk of this division both (1) all exhibits that party will use at this trial and (2) a written list with a brief description of each exhibit.

Exhibits are assigned a number and are not designated as plaintiffs or defendants. The clerk will mark the exhibits in an order that corresponds to the above described lists, but not necessarily as anticipated by the parties, e.g. if defendant’s exhibits arrive first, a defense exhibit might be identified as Exhibit 1. If the parties desire input and foreknowledge regarding precise exhibit numbers to be assigned by the court, they should arrange for a joint meeting with the division’s clerk no later than the deadline for the joint pretrial statement at which time party representatives will provide their exhibits and the above described lists.

An enlargement may be used for demonstrative purposes; however an 8 ½ x 11 size copy of the enlargement must be submitted with the other exhibits. Placeholders will not be accepted and exhibit numbers will not be reserved for exhibits not initially presented. The parties shall ensure that there are no duplicate exhibits. Failure to follow the procedure for submitting trial exhibits may result in the exclusion of the party’s exhibits at trial.

Counsel must provide an extra copy of the exhibits (3 hole punched) for use by the judge.

Courtroom equipment. Please contact this Division’s Judicial Assistant well in advance of trial to discuss logistics regarding your electronic presentation equipment at **(602) 506-5261**.

WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT	CROSS
1			
2			

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3			
4			

DIRECT & CROSS TOTAL: _____

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT	CROSS
1			
2			
3			
4			

DIRECT, REDIRECT & CROSS TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____