

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-006748

09/25/2018

HON. ROSA MROZ

CLERK OF THE COURT
D. Charbagi
Deputy

BILTMORE GARDENS HOMEOWNERS
ASSOCIATION

CHARLENE A CRUZ

v.

GREGORY SIMS

LONNIE J WILLIAMS JR.

JUDGE MROZ

MINUTE ENTRY

East Court Building– Courtroom 414

9:00 a.m. This is the time set a Telephonic Status Conference regarding the status of the case. Plaintiff, Biltmore Gardens Homeowners Association is represented by counsel, Charlene A. Cruz and Mark Sahl. Defendant, Gregory Sims is represented by counsel, Lonnie J. Williams.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held regarding setting a trial in this case.

IT IS ORDERED setting this matter for a **Trial to the Court** on **December 11, 2018 at 10:00 a.m.** (time allotted: 4 hours) in this Division, before:

The Honorable Rosa Mroz
Maricopa County Superior Court
East Court Building, Fourth Floor

SUPERIOR COURT OF ARIZONA
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101 West Jefferson, Courtroom 414
Phoenix, AZ 85003
Phone: (602) 372-0384

Counsel are advised that the lunch recess will be from noon to 1:30 p.m. **Each side is allotted 2 hours of time.**

IT IS ORDERED as follows:

That the parties shall file a Joint Pretrial Statement no later than **December 4, 2018**. The statement shall briefly identify the issues, the witnesses, and a summary of the witnesses' testimony.

Counsel shall attempt to agree on the admission of as many exhibits as possible. Counsel shall contact the courtroom clerk, Diana Charbagi, at **602-506-8806** to schedule a time to deliver exhibits. Counsel shall present all exhibits with a list of exhibit descriptions to the courtroom clerk no later than **12:00 p.m. (noon) on November 27, 2018** along with a brief description of each exhibit. Separate exhibits by a colored sheet of paper with the exhibit number written on front. Do **not** skip numbers, or describe exhibits as "blank" or "withdrawn"; do not "reserve" numbers for items not submitted to the clerk. Do not submit exhibits with subparts (e.g. exhibit 1a, 1b, 1c). Staple or otherwise secure each individual exhibit so that pages do not become separated

Counsel shall present **original** depositions for filing at the same time they present exhibits. Original depositions are provided to the clerk for the record and **are not** marked as exhibits.

Findings of Fact and Conclusions of Law: Any party who requests Rule 52 Findings of Fact and Conclusions of Law shall file Proposed Findings of Fact and Conclusions of Law no later than **December 4, 2018**. In addition to filing the Proposed Findings of Fact and Conclusions of Law, an electronic version in Word or Word-compatible format shall be provided to the Division's Judicial Assistant. If Proposed Findings of Fact and Conclusions of Law are not filed as ordered, the request shall be deemed waived.

DUTIES PRIOR TO TRIAL

To the extent that these orders are inconsistent with any order that has been entered by this Court in this matter, including any scheduling order, this minute entry controls and the inconsistent language in any such previous order is vacated.

Motions in Limine:

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The granting or denial of a motion *in limine* turns on whether the admission of evidence reaches the level of reversible error or a mistrial. Motions *in limine* are not granted “except upon a clear showing of non-admissibility.” The parties shall not file motions denominated as “*in limine*” that are, in substance, late-filed motions for summary judgment.

1. Page Limit and Format: Neither the motion *in limine* nor the response may exceed **three pages**, including the caption. Showing that the motion has merit should not require more than that. Motions *in limine* shall be consecutively numbered in the caption identifying the party filing it and the subject of the motion; e.g. “Defendant’s Motion in *Limine* No. 1 Re: Insurance Agreement,” and shall deal with one discrete subject per motion. Do not respond to more than one motion in *limine* in each response.

Any motion *in limine* or response to such a motion should begin with a simple declarative sentence that identifies the evidence that is the subject of the motion, with the understanding that the broader the scope of the evidence to be excluded, the less likely it is that a motion *in limine* will be granted. The remainder of the motion or response should then explain why a mistrial or reversible error would or would not result if the motion is denied, with citations to authority that have reached the same conclusion in the same or similar circumstances (this also applies to motions *in limine* based on any failure to disclose, keeping in mind that nondisclosure implicates Ariz. R. Civ. P. 37(c)). If the motion is unable to explain why its denial would result in a mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

2. Rule 7.2: Motions *in limine* shall be filed in accordance with Ariz.R.Civ.P. 7.2. Prior to filing any motion *in limine*, the parties through counsel must meet and confer to attempt to resolve issues to be raised by such motions, and any motions *in limine* must include a certification that counsel have so conferred.

3. Deadlines: The deadline for motions *in limine* is **30 days** before the final pretrial management conference. In both instances, responses must be filed **15 days** after service, and no replies should be filed unless requested.

4. Under Advisement: Although motions *in limine* will be considered as quickly as the court’s schedule permits, they will not be taken under advisement any sooner than 15 days before the start of the trial, regardless of when they are filed. If the parties believe that a ruling on such a motion early in the case will facilitate settlement, they should notify this division (by telephone at (602) 372-0384 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

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Daubert Motions:

Any motion brought for a *Daubert* hearing or brought under Ariz.R.Evid. 702, shall be filed at least **120 days** before the Final Trial Management Conference). Failure to file such a motion by this date shall constitute a waiver of (1) any objection that the expert is not qualified to render expert testimony, and/or (2) any objection that any opinion of the expert should be excluded under Ariz.R.Evid. 702.

Miscellaneous Issues:

All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

Requests for interpreters, court reporters or video conference must be made at least two weeks prior to your hearing date.

Trial time will be divided equally between Plaintiff and Defendant. "When you are out of time, you are out of words."

If you are not familiar with this division's electronic equipment, please make an appointment with this division's bailiff, Markus Taylor, via email at taylorm011@superiorcourt.maricopa.gov, to test the equipment at least one week prior to your hearing.

Preferred communication with this division is via email to the judicial assistant, Sandra Nageotte, at nageottes@superiorcourt.maricopa.gov. We are able to respond much quicker to an email. Please make sure you endorse all parties involved in the case.

All inquiries regarding exhibit procedures should be directed to this division's courtroom clerk, Diana Charbagi, at (602) 506-8806.

Please take the time to review the full protocol for Judge Mroz on the Maricopa County Superior Court website.

9:06 a.m. Matter concludes.