

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-014261

09/18/2020

HON. PAMELA GATES

CLERK OF THE COURT
C. Ladden/C. Mai
Deputy

JASON KOMOROWSKI, et al.

E JEFFREY WALSH

v.

WHISPER MOUNTAIN HOMEOWNERS
ASSOCIATION

BRADLEY R JARDINE

ROBERT A HILL
MICHAEL WARZYNSKI
JUDGE GATES
JUDGE MIKITISH

MINUTE ENTRY

East Court Building – Courtroom 912

9:07 a.m. This is the time set for a Status Conference. Plaintiffs are represented by counsel, E. Jeffrey Walsh and Robert Hill. Defendant is represented by counsel, Michael Warzynski and Bradley R. Jardine. All parties appear via GoToMeeting.

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

Discussion is held regarding case status and the conditions the parties came to regarding continuing with a blue ribbon panel.

Based on the foregoing, the court proposes the following:

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- The court will submit a list of 20 judge *pro tems* to the parties by **September 23, 2020.**
- Each side has 3 strikes which shall be exercised **on or before September 25, 2020.** Plaintiff shall execute the first strike, with alternating strikes until the exhaustion of strikes is complete.
- The court will attempt to contact the *pro tems* **on or before September 29, 2020** with the hope that a blue ribbon panel will conclude **on or before October 16, 2020.**
- All testimony, with the exception of the Plaintiff and the HOA President, will be submitted by declaration and any expert report, with the exception of any compelled witness. The declarations and reports shall be submitted by **October 5, 2020** with any objection filed by **October 7, 2020,** with the intent of a ruling by October 9, 2020.
- The issue of injunctive relief will be submitted to the judge presiding over the proceeding.
- **Prior to October 5, 2020,** the parties shall meet and confer regarding the language of a maintenance agreement to determine whether an agreement can be reached on the language of the HOA maintaining the channel moving forward.
- The issue of damages will be presented to the three person blue ribbon panel. A verdict will be reached if two of the three agree.
- Both parties reserve their right to appeal.
- Any motions for new trial will be submitted to the presiding judge over the proceeding and that judge retains the right to involve the other blue ribbon panel members if the judge deems it appropriate.
- The issue of attorney's fees will be decided by the presiding judge, including whether the party is entitled to an award and the amount.
- The blue ribbon panelists will serve as special masters, but their verdicts will be subject to the same review as a jury verdict.

IT IS ORDERED that by **12:00 p.m. on September 21, 2020,** the parties shall email this division at Justin.Aldecoa@JBAZMC.Maricopa.Gov with the same to the judge at Pamela.Gates@JBAZMC.Maricopa.Gov on whether they agree to the court's proposal, whether they have collectively reached an agreement on a modification of the court's proposal or whether they cannot agree. If the parties cannot agree, the court will request that Judge Mikitish expedite a trial setting conference/status conference to discuss the trial date.

10:08 a.m. Matter concludes.

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NOTE: Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2020-79 requires all individuals entering a court facility to wear a mask or face covering at all times they are in the court facility. With limited exceptions, the court will not provide masks or face coverings. Therefore, any individual attempting to enter the court facility must have an appropriate mask or face covering to be allowed entry to the court facility. Any person who refuses to wear a mask or face covering as directed will be denied entrance to the court facility or asked to leave. In addition, all individuals entering a court facility will be subject to a health screening protocol. Any person who does not pass the health screening protocol will be denied entrance to the court facility.