

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-070012

09/28/2006

HONORABLE COLLEEN MCNALLY

CLERK OF THE COURT
MARIAN K. SMITH
Deputy

ALEXANDER SEPANSKI, et al.

MATHIS BECKER

v.

SUN CITY GRAND COMMUNITY
ASSOCIATION INC, et al.

JOHN H ISHIKAWA

MINUTE ENTRY

IN CHAMBERS

8:48 a.m. This is the time set for a Pre-Trial Conference to schedule trial in the pending Complaint filed by Plaintiffs on January 6, 2006. Plaintiffs are represented by Mathis Becker, and Defendants are represented by John Ishikawa, both appearing telephonically.

A CD/video recording of this proceeding is made by the JAVS system in lieu of a court reporter.

Counsel advise the Court that they have selected Leah Pallin-Hill to conduct private mediation in this case.

Discussion is held regarding the Joint Pretrial Memorandum. By agreement of counsel, the following changes are made to the discovery deadlines:

- The deadline for completion of discovery is amended to January 31, 2007.

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- The deadline for disclosure of expert witnesses and their opinions is amended to December 20, 2006.

The Court hereby adopts the schedule as set forth in the Joint Pretrial Conference Memorandum with the above changes.

TRIAL SETTING

IT IS ORDERED setting this matter for Jury Trial in this Division on **TUESDAY, MARCH 20, 2007, at 9:00 a.m.** before:

The Honorable Colleen McNally
Northwest Regional Court Center – Courtroom 121
Superior Court of Arizona in Maricopa County
14264 West Tierra Buena Lane
Surprise, Arizona 85374
(602) 506-5961

The estimated length of Trial is three (3) days.

IT IS FURTHER ORDERED setting a Pretrial Management Conference on **THURSDAY, MARCH 1, 2007, at 9:00 a.m.** The Court has allotted thirty (30) minutes for said conference.

The purpose of the conference is to hear pending motions *in limine* and to discuss various pretrial matters, including objections to deposition testimony, exhibits and/or witnesses, review proposed *voir dire* and settle jury instructions. If all counsel feel significantly more or less time is required for the conference, the Court should be notified immediately.

Dispositive motions must be filed no later than **December 20, 2006**. Untimely motions will be stricken.

IT IS FURTHER ORDERED that the Joint Pretrial Statement in accordance with Rule 16(d), Arizona Rules of Civil Procedure, proposed *voir dire* and jury instructions are all due by 5:00 p.m. two (2) business days before the Pretrial Management Conference. In addition to the information required by Rule 16(d), counsel are to identify in the joint pretrial statement all deposition or other transcribed testimony that may be offered at trial other than for impeachment. The proposed testimony is to be

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identified by reference to page and line numbers. Objections, if any, to such testimony and the reasons for such objections are also to be set forth.

Based upon the Trial setting, the Court enters the following orders:

1. No less than two (2) judicial days prior to the Pretrial Management Conference, counsel (or the parties) shall file:
 - A. Requested jury instructions and any *voir dire* questions counsel wish the Court to ask.
 - B. Any trial memoranda (optional).
2. Motions *in limine* shall be filed 20 days prior to the Pretrial Management Conference and must meet the test of State v. Superior Court, 108 Ariz. 396, 499 P.2d 152 (1972): "The primary purpose of a motion *in limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial". Written responses to motions *in limine* may be filed no later than 10 days prior to the Pretrial Management Conference.
3. All exhibits shall be exchanged prior to the Pretrial Management Conference. Written stipulations to admit specific exhibits in evidence are encouraged. All known objections to exhibits and witnesses must be made before or during the Pretrial Management Conference. **All proposed exhibits to be marked for trial shall be presented to the clerk of the Division directly after the Pretrial Management Conference.**
4. The Court encourages the use of juror notebooks in appropriate cases. Stipulating to the contents in evidence is necessary. Key exhibits may be included along with diagrams, photographs, timelines, non-argumentative summaries of positions on liability and damages and other information helpful to jurors.
5. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.

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6. The witness and exhibit lists in the pretrial statement shall contain no surprises; any information revealed for the first time on the witness or exhibit lists will be inadmissible at trial.
7. Narrative summaries with brief excerpts of deposition question and answer testimony are preferred at trial rather than the reading in of pages of testimony or the playing of the videotaped deposition.
8. Any stipulation to continue trial will be treated as a joint motion. Local Rule 3.4 provides that "no trial continuance shall be granted unless there is a showing of good cause." Accordingly, a trial continuance will not be granted unless there is a showing of good cause regardless of whether the parties stipulate to the continuance.
9. If this matter settles, the parties are to notify the Court immediately as required by Local Rule 2.10. If the Court is not notified of a settlement before 2:00 p.m. one judicial day prior to trial, either or both of the parties shall be responsible for the jury fees pursuant to Rule 2.6, Local Rules of Practice.

8:51 a.m. Conference concludes.