

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-020236

11/21/2005

HON. PAUL A KATZ

CLERK OF THE COURT
W. Bobrowski
Deputy

FILED: 11/29/2005

ASTRAGAL CONDOMINIUM UNIT OWNERS
ASSOCIATION

LISA M BOROWSKY

v.

ASTRAGAL L L C, et al.

CRAIG A MCCARTHY

MICHAEL J FRAZELLE
JOHN DUKE HARRIS
JAMES K KLOSS
PAUL S KULAR
ANDREW R PESHEK
GREGORY E WILLIAMS
DARRELL S DUDZIK
TIMOTHY J BOJANOWSKI
N PATRICK HALL
WILLIAM D BISHOP
RICHARD BRUMBAUGH JR.
TERRENCE P WOODS
SCOTT B HUMBLE
MARCELLA ROSE HOFELICH
DENISE J HENSLEE

JURY TRIAL SET

1:33 p.m. This is the time set for Pretrial Scheduling Conference. Plaintiff is represented by counsel, Lisa M. Borowsky. Defendants are represented by counsel, Craig A. McCarthy and Wendy N. Wigand. Third Party Defendant American Woodmark Corporation is represented by counsel, Darrell Dudzik. Third Party Defendant Central Valley Specialties, Inc., Faith Plumbing, Inc., R.A.P.I. Ltd. and Maldonado Masonry, LLC are represented by counsel, Gregory E. Williams. Third Party Defendant Holmes-Hally Industries, Air-Zona Systems Engineering, Inc., Maricopa Plumbing and Custom Plus Stairs, Inc. are represented by counsel, Tim Bojanowski.

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Hook Engineering is represented by counsel, Heather Hooks, who appears on behalf of Denise J. Henslee. Quality Builders, Inc. and Cohaco Building Specialties, Inc. are represented by counsel, Patrick Hall. Landa & Associates is represented by counsel, James K. Kloss. Redi-Carpet Sales of Arizona, Inc. is represented by counsel, William Bishop. Super Lath & Stucco, Inc. and Maldonado Masonry, LLC are represented by counsel, Richard Brumbaugh, Jr. Universal Underground, Inc., American Woodmark Corp. and Willman & Sanetra Plastering, Inc. are represented by counsel, Paul S. Kular. Statewide Lighting of Arizona, Inc. is represented by counsel, Michael J. Frazelle. Mesa Fully Formed, Inc. is represented by counsel, John D. Harris. Harper Stone & Tile is represented by counsel, Andrew Peshek. Trussman, Inc. is represented by counsel, Terrence P. Woods. Century Roofing, Inc. is represented by counsel, Scott Humble. Hatfield Reynolds Electric Co., RTK Electric Co. and Irriscape Construction, Inc. are represented by counsel, Marcella Hofelich.

A recording of this proceeding is being made by CD (FTR) in lieu of a court reporter.

Discussion is held.

IT IS ORDERED:

1. Adopting the stipulated deadlines set forth in the parties' Revised Joint Rule 16(b) Scheduling Conference Memorandum filed on or about November 17, 2005. With respect to subparagraphs 8, 9 and 10 the Court will adopt the dates that were proposed by the Defendants and the Third Party Defendants. With respect to subparagraph 11, the Court adopts the April 26, 2006 deadline for the expression of final opinions. The parties have stipulated or agreed to the May 16, 2006 deadline in subparagraph 12 and the July 3, 2006 deadline in subparagraph 13.
2. The parties have advised the Court that they anticipate participating in a private mediation.

IT IS FURTHER ORDERED:

1. This matter is set for trial to a jury on **February 20, 2007 at 8:30 a.m.**

Estimated length of trial is: **4-6 weeks.**

THIS IS A FIRM TRIAL SETTING. If counsel have any pre-existing conflicts with said trial date, they shall notify the Court, in writing, within five (5) days from today's date.

Setting oral argument on motions in limine and a Final Pretrial Conference for February 5, 2007 at 8:30 a.m. (time allotted: all day).

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Setting an interim Status Conference on **August 28, 2006 at 3:00 p.m. (time allotted: 30 minutes)**.

2. The joint pretrial statement in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due by **5:00 p.m. on January 23, 2007**. In addition to the information required by Rule 16(d), counsel are to identify in/with the joint pretrial statement all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be 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. **Exhibits for trial shall be consecutively numbered and presented to the Clerk for marking in accord with the joint pretrial statement. Please DO NOT place exhibits in a notebook when submitting them to the Court.**

Along with the joint pretrial statement, Counsel shall deliver to this division, a jointly-completed time and witness estimate list. (A sample form is incorporated in this order). The Court will use the list to predict the length of the trial for the jurors and to direct counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause. Counsel are reminded that, excluding breaks, a typical jury trial day is approximately four and a half hours.

3. Motions in limine shall be due no later than **January 23, 2007**. Said motions 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."

4. Responses to motions in limine shall be due no later than **January 30, 2007**. No replies shall be filed.

5. No less than five (5) judicial days prior to trial, counsel (or the parties) shall file:

A. Requested jury instructions and any voir dire questions counsel request that the Court ask.

The Judge would appreciate counsel providing a copy of the jury instruction requests on IBM-compatible double-sided, high density 3.5 inch diskettes, in Microsoft Word.

B. Any trial memoranda (optional), which will be in lieu of post-trial briefs unless otherwise requested by the Court at the conclusion of the trial.

C. Proposed findings of fact and conclusions of law (if a request for findings of fact and conclusions of law has been or will be filed).

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6. All motions (except motions in limine) shall be filed no later than **November 20, 2006** so they can be scheduled, briefed, argued and decided prior to trial.

7. **At least one week before trial**, the trial lawyers shall make an appointment for themselves or their knowledgeable assistants to meet with the Clerk of this division (602-372-7725) to present all exhibits and a list of exhibit descriptions. All trial exhibits shall have been exchanged prior to that time. **No duplicate exhibits shall be presented for marking. If either party fails to comply with the steps for marking exhibits, that party's exhibits may be precluded from being marked at trial.** Please **DO NOT** place exhibits in a notebook when submitting them to the Court.

8. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.

9. The witness and exhibit lists shall contain no surprises; any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.

10. All documents and pleadings described above shall be hand-delivered, telefaxed or e-mailed to opposing counsel on the date they are delivered to the Court.

TIME ESTIMATES FOR TRIAL

CAUSE NUMBER _____

CASE CAPTION _____

PLAINTIFF'S COUNSEL _____

DEFENDANT'S COUNSEL _____

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

Opening Statement and Closing Argument

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

Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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

2:06 p.m. Matter concludes.

E-Courtroom Policies

Courtroom 111 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. If a court reporter is required, the Court must receive a 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.

Do not attempt to set up the equipment by yourself! In addition, please do not unplug, move, or in any way alter any of the equipment, microphones, cameras, etc. in the courtroom.