

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-008955

11/18/2019

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT
L. Stogsdill
Deputy

SUNRISE DESERT VISTAS PROPERTY
OWNERS ASSOCIATION INC

GUY W BLUFF

v.

DONA LISA JOHNSON

DANIEL R SALLUS

MINUTE ENTRY

Courtroom 914 - ECB

9:14 a.m. This is the time set for a Telephonic Pre-Trial Conference. Plaintiff/Counterdefendant is represented by counsel, Guy W. Bluff. Defendant/Counterclaimant is represented by counsel, Daniel R. Sallus. The parties appear telephonically.

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

Case status is discussed.

For the reasons stated on the record,

IT IS ORDERED setting this matter for a 4 day **Trial to a Jury** on **August 3, 2020 at 9:30 a.m.** in this division before:

**HONORABLE CHRISTOPHER A. COURY
MARICOPA SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON STREET**

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**9th FLOOR-COURTROOM 914
PHOENIX, AZ 85003
PHONE: 602-372-3876**

Scheduled trial days are: August 3-6, 2020

Trial days are normally 9:30 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m., Monday through Thursday. Counsel are advised to arrive at 9:00 a.m. the first day of trial.

Counsel/parties shall make note that the Court reserves for itself **one (1) day** for the purpose of jury selection and jury deliberations.

NOTE: This is a firm trial setting. Motions to continue based on lack of preparation will ordinarily not be granted.

IT IS FURTHER ORDERED setting a **Final Trial Management Conference on June 22, 2020 at 9:00 a.m. (time allotted: 1 hour)**. Trial counsel shall appear *in person* for the conference. Any self-represented party shall appear in person for the conference. This minute entry order sets forth tasks that must be completed by trial counsel. Any party that is self-represented is advised that all tasks imposed upon "counsel" in this minute entry Order apply to self-represented litigants.

Based upon the foregoing trial setting,

**PRETRIAL STATEMENT &
DUTIES PRIOR TO FINAL TRIAL MANAGEMENT CONFERENCE**

A Joint Pretrial Statement (JPTS) must be filed no later than **June 15, 2020**. In addition to the materials required by Ariz.R.Civ.P. 16(f), counsel shall meet prior to the Final Trial Management Conference in order to discuss and prepare the following, which shall be filed with or included in the JPTS:

- A. Proposed *voir dire* questions.
- B. A completed Witness Information Form (attached), setting forth a list of all witnesses each party intends to call at trial in the order in which the party intends to call the witness, together with the estimated time needed for direct, cross, and redirect examinations.

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- C. A joint set of agreed-upon jury instructions and verdict forms. Each party shall provide separate sets of any requested instructions that have not been agreed upon. (Please review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the RAJI Civil 6th Statement of Purpose and Approach before requesting non-RAJI instructions.) Recommended Arizona Jury Instructions (RAJI (Civil) 6th) need not be retyped, but may be listed by name and number, such as:

RAJI Preliminary 1 - - Duty of Jurors
RAJI Standard 2 - - Burden of Proof
RAJI Negligence 1 - - Violation of Statute

NON-RAJI INSTRUCTIONS shall be typed in Word Format, numbered consecutively, one per page, with legal authority in support of the instruction. A CD of any non-RAJI instructions shall be provided to this Division. (No CD is required for RAJI instructions.)

- D. A brief statement of the claims for inclusion in RAJI Preliminary 14 – Claims Made and Issues To Be Proved.
- E. A stipulated brief summary of the case, to be read by the court during *voir dire*.
- F. A list, by page and line numbers, of all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, including designations of testimony that a party believes ought in fairness to be introduced pursuant to Ariz.R.Civ.P. 32(a) together with any testimony to be offered by an opposing/other party. At the Final Trial Management Conference, counsel shall provide to the Court copies of any deposition transcripts to be read to the jury. On the copies, those parts of any such testimony to which objection is made, shall be highlighted by the offering party, and the opposing party shall highlight any Rule 106 additions. The testimony objected to and the reasons for such objection shall be clearly marked in the margin. **Any objection not so included is waived.** Since jurors generally prefer narrative summaries or brief excerpts of questions and answers, the parties should confer and prepare agreed-upon summaries.
- G. A list of all marked exhibits containing a brief description of each exhibit and any objections to such exhibits. **Any objection not so included is waived.**

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H. Copies of all expert disclosures made pursuant to Ariz.R.Civ.P. 26.1(a)(6).

At the Final Trial Management Conference, counsel who will try the case shall appear and be prepared to discuss and resolve:

- A. Allocation of trial time among the parties and, if appropriate, time limits for *voir dire*, opening statements, witness examinations, and closing arguments;
- B. Stipulations regarding witnesses testimony and the admission of exhibits;
- C. Jury instructions, juror notebooks, and verdict forms;
- D. Deposition summaries and excerpts from depositions including objections thereto;
- E. Scheduling, equipment, or interpreter issues;
- F. Status of settlement negotiations;
- G. Use of short-trial or summary jury trial;
- H. Motions *in limine*; and
- I. Other matters addressed in the JPTS.

One day's jury fees will be assessed against the parties (evenly divided) unless the Court is notified of settlement by 2:00 p.m. on the judicial day before trial. Counsel are reminded to promptly notify the Court of any settlement pursuant to Rule 5.3(d)

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.

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DUTIES PRIOR TO TRIAL
PLEASE READ CAREFULLY

I. Discovery Disputes:

If a discovery dispute needs judicial intervention, the parties must first comply with Rule 37's meet and confer provision. Absent resolution, counsel for the movant shall email the Court's Judicial Assistant, Leticia Gauna, at gaunal@superiorcourt.maricopa.gov, and all other counsel to advise them of his/her request for a telephonic hearing. Each party shall thereafter email the Court's Judicial Assistant a summary of the dispute in Times New Roman 13 point font, limited to no more than two pages. Please make certain all parties are copied on the email. The emails will be filed with the Clerk. Once the Court receives a summary from each party and a certification of compliance with Rule 37, the Judicial Assistant will email the parties to schedule a telephonic conference with the Judge. These are generally held within one to three business days.

II. Motions in Limine:

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. *Each side is limited to five motions in limine without leave of Court to file more.*

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.

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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. 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) 372-3876** or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

III. Daubert Motions:

The deadline for any motion brought for a Daubert hearing or brought under Ariz.R.Evid. 702, is the same as the dispositive motion deadline. 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.

IV. Exhibits:

Exhibits are due to this division's clerk by 12:00 p.m. July 20, 2020. Counsel shall meet and confer regarding authenticity, foundation, and admission of exhibits to expedite the process during trial. Counsel shall also confer to eliminate any duplicate exhibits. During trial, please advise the clerk, on the record, which exhibits may be marked directly into evidence. Counsel are advised that exhibits should be received into evidence prior to asking witnesses to testify regarding the substance of the exhibit.

Procedures for Submitting Exhibits to be Marked for Trial

Please provide an exhibit list with a brief description of each exhibit. The list should contain the case number, the caption, scheduled trial date and the party (Plaintiff/Defendant) submitting the exhibits.

- Counsel should confer and do the following:

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- indicate on the exhibit list which exhibits have been stipulated in evidence
- insure that there are **NO duplicate exhibits submitted**
- Exhibits will be marked numerically and consecutively.
 - Plaintiff's exhibits are marked first followed by Defendant's.
 - **Do NOT use subsections of exhibits** (ex: 4a or 4.001). If subsections are used, each subsection will be marked as the next consecutive number and your exhibit list numbers will not match the Court's exhibit list numbers. Please use **only** the next consecutive number for each exhibit.
 - Do not leave blank spaces as we will not hold numbers. If there is a blank, the next exhibit shall be marked consecutively to the previously numbered exhibit.
 - If any exhibit is longer than 5 pages, it must contain consecutive bates stamped numbers for ease of identification.
- Exhibits should be submitted in 3-Ring binders (**only if there are less than 100 total exhibits i.e., Plaintiff's and Defendant's exhibits**) and **separated by a numbered tabbed divider sheet**. 3-Ring binders should **not** be 100% full. Exhibits shall be either stapled together or secured with an Acco type binder. The tabbed divider shall reflect the number of the exhibit and should be placed on top of the exhibit. **DO NOT STAPLE THE DIVIDER TO THE EXHIBIT.**
- If there are more than 100 total exhibits: Each exhibit shall be stapled together (or fastened with a two-pronged type binder at the top) with a **colored sheet of paper** between each exhibit with the corresponding exhibit number thereon and contained in a Banker's box.
- Blow-ups and large items may only be used for demonstrative purposes during trial. If you would like them to be marked as an exhibit, you must provide/submit an 8 ½ x 11 photo of the item to be marked.
- **Depositions are NOT marked as exhibits.** Counsel shall present **ORIGINAL** depositions for filing at the same time that they provide their exhibits. **ORIGINAL** depositions are filed in by the division Clerk.
- Poster boards and large items may only be used for demonstrative purpose. Counsel shall advise opposing/other counsel of any demonstrative poster boards at least three (3) judicial days prior to trial. Counsel may bring poster boards and large items to Court to use during trial. However, if counsel intends any poster boards or large items to be marked as an exhibit, they must provide the clerk with an 8 ½ by 11 photograph/copy of the item and include the photograph/copy in the submitted list of exhibits.
- You may contact the court staff 7 days prior to the beginning of trial to make an appointment to familiarize yourself with the technology available in the courtroom.

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V. Miscellaneous Issues:

A. 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.

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

C. Trial time will be divided between Plaintiff and Defendant. “When you are out of time, you are out of words.”

D. If you are not familiar with this division’s electronic equipment, please make an appointment with this division’s bailiff, Steven Conolly, via email at conollys@superiorcourt.maricopa.gov, to test the equipment at least one week prior to your hearing.

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

F. One day’s jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(c), of the Arizona Rules of Civil Procedure.

G. The dates set forth in this Order are FIRM dates and will not be extended or modified by the Court absent good cause. Lack of preparation will not ordinarily be considered good cause.

H. If/when a party files a pleading within 48 hours of a scheduled event, the party should also e-mail the same to the Court’s Judicial Assistant at gaunal@superiorcourt.maricopa.gov.

NOTE: COUNSEL SHALL UPLOAD AND E-FILE ALL PROPOSED ORDER IN WORD FORMAT ONLY TO ALLOW FOR POSSIBLE MODIFICATIONS BY THE COURT.

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9:18 Matter concludes.

WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF:

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

PLAINTIFF'S TOTAL WITNESS TIME ESTIMATE: _____

WITNESSES FOR DEFENDANT:

	WITNESS NAME	DIRECT	CROSS	REDIRECT
1				
2				
3				
4				
5				

DEFENDANT'S TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF(S)		DEFENDANT(S)
VOIR DIRE			
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	

PLAINTIFF'S TOTAL TIME ESTIMATE: _____

DEFENDANT'S TOTAL TIME ESTIMATE: _____

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NOTE: if there are multiple parties on the same side who are represented by different attorneys, then each party being represented by different attorneys shall fill out his/her own time estimates.

IMPORTANT NOTICE REGARDING ONLINE PROFILE

Judge Coury maintains an online profile that answers many questions about courtroom and division procedures. Litigants and their attorneys should familiarize themselves with the online profile. You can find the online profile at the following link:

<http://www.superiorcourt.maricopa.gov/JudicialBiographies/judges/profile.asp?jdgID=272&jdgUSID=9683>.