

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-014261

11/09/2020

HONORABLE JOSEPH P. MIKITISH

CLERK OF THE COURT
C. Lacey/K. Tretz
Deputy

JASON KOMOROWSKI, et al.

E JEFFREY WALSH

v.

WHISPER MOUNTAIN HOMEOWNERS
ASSOCIATION

BRADLEY R JARDINE

JUDGE MIKITISH

TRIAL MINUTE ENTRY
DAY TWO

ECB 913

Prior to the commencement of trial, Plaintiffs' exhibit 99 and Defendant's exhibits 100 through 105 are marked for identification.

8:44 a.m. Trial to the Court continues from November 5, 2020. Plaintiffs Jason Komorowski and Melissa Komorowski, who are present, are represented by counsel, E. Jeffrey Walsh and Robert A. Hill. Defendant Whisper Mountain Homeowners Association is represented by counsel, Bradley R. Jardine and Michael Warzynski. Greg Wingert, a representative of the Defendant Whisper Mountain Homeowners Association, is present. Plaintiff Melissa Komorowski appears telephonically.

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

Discussion is held regarding Defendant's expert witness James Deatherage and late exhibit submission.

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As to the supplemental opinion of Mr. Deatherage,

IT IS ORDERED that Mr. Deatherage's testimony shall be permitted to what he learned after his initial assessment given the timing the work was done. If there is something that arises from Mr. Deatherage's testimony that the parties think needs to be revisited, the Court will hear it at that time.

As to the files from Mr. Peterson,

IT IS FURTHER ORDERED that the Court will not exclude the files from Mr. Peterson that are proposed to come into evidence. If there are other reasons to exclude documents from the file, the Court will review those at that time.

Plaintiffs' case continues:

Curt R. Peterson resumes the stand and testifies further.

Defendant's exhibits 106 and 107 are marked for identification.

Plaintiffs' exhibit 94 is received in evidence.

10:24 a.m. Court stands at recess.

10:45 p.m. Court resumes with respective parties and counsel present.

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

The witness is excused, subject to recall.

Mario Montoya is sworn and testifies.

The witness is excused.

Curt R. Peterson resumes the stand and testifies further.

Defendant's exhibit 101 is received in evidence.

Defendant's exhibit 108 is marked for identification.

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Plaintiffs' exhibits 10 and 11, and Defendant's exhibits 100 and 108 are received in evidence.

12:05 p.m. Court stands at recess.

1:14 p.m. Court reconvenes with respective parties and counsel present.

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

Curt R. Peterson continues testifying.

Defendant's exhibits 103, 104, and 105 are received in evidence.

The witness is excused.

Matthew Potter is sworn and testifies.

Argument is presented by the parties regarding the Plaintiffs' disclosure in relation to Matthew Potter's testimony.

The Court notes that the Plaintiffs' November 2020 property valuation disclosure is not timely. At the direction of the Court,

IT IS ORDERED that Mr. Potter's testimony and opinion regarding property value shall be permitted within the scope of his July 2019 report. Opinions regarding the value of the Plaintiffs' property as of November 2020 shall not be heard.

2:44 p.m. Court stands at recess.

3:08 p.m. Court reconvenes with respective parties and counsel present.

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

Matthew Potter continues testifying.

The witness is excused.

Discussion is held regarding the Defendant's oral Rule 50 Motion for directed verdict.

Pursuant to the matters discussed,

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IT IS ORDERED denying the Motion.

James Deatherage is sworn and testifies.

Defendant's exhibit 59 is received in evidence.

Defendant's exhibit 60 is received in evidence.

The Court notes that due to prior stipulation of the parties, Defendant's exhibits 61 and 106 shall not be received in evidence, but may be presented for demonstrative purposes.

Defendant's exhibit 66 is received in evidence.

Defendant's exhibit 67 is received in evidence.

The witness is excused, subject to recall.

Discussion is held regarding witness scheduling and Defendant's outstanding Motion for Sanctions under Rule 37(D), filed November 4, 2020.

4:45 p.m. Court stands at recess until 9:30 a.m. on November 10, 2020.