

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-091037

12/20/2010

HON. JOHN R. DITSWORTH

CLERK OF THE COURT
M. Brady
Deputy

ESTHER SCHINBECKLER

MICHAEL G DELGADO

v.

SUNLAND VILLAGE COMMUNITY
ASSOCIATION

RYAN J MCCARTHY

JURY TRIAL SET
TRIAL MANAGEMENT CONFERENCE SET

Courtroom 203 – SEA

8:34 a.m. This is the time set for telephonic status conference to set a trial date. Counsel, Michael Delgado, participates telephonically on behalf of Plaintiff. Counsel, Ryan McCarthy, participates telephonically on behalf of Defendant.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

IT IS ORDERED extending the deadline for discovery to February 28, 2011.

IT IS ORDERED:

1. **TRIAL**

This matter is set for a Jury Trial on **June 27, 2011 at 9:30 a.m.** in this Division.

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LENGTH OF TRIAL: **3** days

HONORABLE JOHN R. DITSWORTH
SOUTHEAST COURTHOUSE
222 EAST JAVELINA
COURTROOM 203
MESA AZ 85210

THIS IS A FIRM TRIAL SETTING

Trial days and hours are as follows: Monday through Thursday from 9:00 a.m. to 4:30 p.m. daily. The Court will take two 15-minute recesses, one in the morning and one in the afternoon. The lunch recess will be from 12:00 p.m. to 1:30 p.m.

2. **MOTIONS**

A. **SUBSTANTIVE MOTIONS**

All substantive motions, including motions for summary judgment, shall be filed **no later than March 29, 2011**.

B. **MOTIONS IN LIMINE**

Any and all Motions *in Limine* shall be filed no later than **May 4, 2011**, and shall be hand-delivered to opposing counsel and the Court. Such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 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”). *See also*, Ariz. R. Evid. 103(c). Written responses to Motions *in Limine* shall be filed no later than **May 13, 2011** and hand-delivered to opposing counsel and this Division. Replies shall not be allowed absent leave of Court. Failure to meet and confer in accordance with Ariz.R.Civ.P. 7.2(a) prior to the filing of any Motion in Limine may result in sanctions.

The Court will rule on Motions *in Limine* without oral argument unless otherwise ordered. Any Motion *in Limine* not timely filed will be deemed waived.

3. **JURY SELECTION**

The Court uses the “struck” method for jury selection. The parties will be permitted to conduct their own *voir dire* after the Court completes its own *voir dire*. The purpose of *voir dire*

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is to secure a fair and impartial jury and not to educate the jury as to the legal/factual theories espoused by a particular party.

4. **TRIAL MANAGEMENT CONFERENCE**

A Trial Management Conference is set for **June 3, 2011 at 1:30 p.m. (allotted time: 1 hour)** in this Division. The lead trial counsel for each party is required to attend the Trial Management Conference. Self-represented litigants are also required to attend. Except as stated above, parties are not required to attend. Failure of any trial counsel or any self-represented litigant to attend the Trial Management Conference may result in sanctions.

At the Trial Management Conference, counsel for each party and any self-represented litigants shall be prepared to discuss:

- A. Length of *voir dire*, opening statements, examination of witnesses, and closing arguments.
- B. The number of jurors on the jury panel, and the involvement of the alternate jurors in deliberation.
- C. Stipulations for the foundation, authenticity, and admission of exhibits.
- D. Preliminary and final jury instructions.
- E. Agreed-upon deposition summaries and excerpts from deposition transcripts and/or videotaped depositions.
- F. Any special witness scheduling or equipment-related issues.
- G. A brief summary of the case to be read to the jury.
- H. The allocation of trial time per party.

5. **MARKING EXHIBITS FOR TRIAL**

Trial counsel and self-represented litigants (“the parties”) are directed to personally meet **no later than April 28, 2011** to exchange trial exhibits and discuss the exhibits prior to submitting them to the Court for trial. At this meeting, the parties’ shall attempt to agree on authenticity, foundation, and admission of the exhibits to shorten the time spent on exhibits during the trial.

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At the time of the Trial Management Conference, the parties shall present to the Clerk of this Division all exhibits they will be introducing at trial. Counsel shall present all exhibits with a written list of brief exhibit descriptions to the Clerk. Exhibits shall not be placed in a notebook. Each exhibit shall be clipped or bound if too large to be stapled. Exhibits are to be separated by a colored sheet of paper or by a divider sheet. An enlargement may be used for demonstrative purposes; however an 8 ½ x 11 size copy of the enlargement must be submitted with the other exhibits and will be marked for demonstrative purposes only. (Enlargements will be released to the party using said enlargement at the end of trial.) The exhibits will be marked by the Clerk in consecutive order: Plaintiff's exhibits will be marked first; Defendant's exhibits will be marked second. Exhibits are assigned numbers in a serial fashion. Placeholders will not be accepted and exhibit numbers will not be reserved for exhibits not presented at this time. The parties shall ensure that there are no duplicate exhibits. Failure to follow the procedure for submitting trial exhibits may result in the exclusion of that party's exhibits at trial.

6. **DEPOSITIONS**

To the extent reasonably possible, the content of any deposition a party intends to offer in evidence shall be either summarized or relevant excerpts of the deposition shall be extracted. Videotape depositions shall be edited in the same manner. Deposition summaries and excerpts shall be exchanged by the parties prior to the Trial Management Conference. All deposition summaries and excerpts shall be provided to the Clerk of this Division at the time of the Trial Management Conference.

7. **WITNESS INFORMATION FORM**

Counsel for each party and any self-represented litigant shall meet **no later than May 27, 2011** to complete the Witness Information Form which is attached to this minute entry. The parties shall set forth the names of each witness and the estimated time required for direct and cross-examination. Time estimates shall also be set forth for opening statements and closing arguments. The completed form shall be submitted with the Joint Pretrial Statement. The Court will rely upon the Witness Information Form to predict the length of the trial for the jurors and to allocate the time allowed for each party to present its case to the jury.

Attachment: Witness Information Form.

8. **FINAL JOINT PRETRIAL STATEMENT**

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The Joint Pretrial Statement meeting the requirements of Ariz.R.Civ.P. 16(d)(2)(A)-(K) shall be delivered to this Division by 5:00 p.m. on **May 30, 2011**. In addition to the requirements of Ariz.R.Civ.P. 16(d)(2)(A)-(K), the parties shall submit to the Court:

- A. A statement by each party identifying all expert witnesses, the opinions of said experts, and a description of the factual/substantive basis for each such opinion.
- B. A CD containing the full text of all preliminary and final jury instructions jointly agreed upon by the parties, in Word format.
- C. CDs containing separate sets of requested instructions that have not been agreed upon in Word format. (Please consider *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the RAJI Civil 4d Statement of Purpose and Approach before preparing any request for non-RAJI instructions.)
- D. Written objections to any jury instructions citing specific authority in support of said objections.
- E. A completed Witness Information Form.
- F. Any voir dire questions a party seeks to ask during jury selection.
- G. Trial memoranda (optional).
- H. Proposed and compiled juror notebooks.

8:38 a.m. Hearing concludes.

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WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				
5				
6				

DIRECT, REDIRECT & CROSS TOTAL: _____

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				
5				
6				

DIRECT, REDIRECT & CROSS TOTAL: _____

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TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF	DEFENDANT
OPENING STATEMENT		
CLOSING ARGUMENT	1 st :	2 nd :

NOTE: All Court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting the division three (3) court business days before the schedule hearing.