

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-000741

12/16/2013

HON. SALLY SCHNEIDER DUNCAN

CLERK OF THE COURT
J. Kiraly/C. Castro
Deputy

MANISH THAKRAR

GREGORY G MCGILL

v.

SURENDRA PALA

BIMAL R MERCHANT

BRAD A DENTON

MINUTE ENTRY

Courtroom 702 – Central Court Building

9:18 a.m. This is the time set for Oral Argument on Third Party Defendant's Motion to Dismiss filed on, October 10, 2013. Plaintiff, Manish Thakrar, is present in the courtroom and represented by counsel, Gregory G. McGill. Defendant, Surendra Pala, is present in the courtroom and is represented by counsel, Bimal R. Merchant. Defendants Bipin Kanabar and Sandhya Kanabar are represented by counsel, Sterling Peterson who appears telephonically.

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

Arguments are presented.

For the reasons stated on the record,

IT IS ORDERED denying the Motion to Dismiss in part, and granting in part. The Motion to Dismiss is denied as to the fraud counterclaim and granted as to breach of fiduciary duty counterclaim.

Discussion is held on Plaintiff's Motion for Telephonic Discovery and Scheduling

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Conference filed on, October 16, 2013.

IT IS ORDERED requiring Defendant's counsel to file a formal motion with the Court requesting an interpreter for his client, shall bear the expense of the interpreter and file a motion for reallocation of costs.

IT IS FURTHER ORDERED the deposition of Defendant is not limited to 4 hours to allow a reasonable amount of time to accommodate the interpreter.

IT IS FURTHER ORDERED as follows:

Counsel and/or the parties shall meet in person to discuss all of the matters set forth in Ariz. R. Civ. P. Rule 16(b). Counsel and/or the parties shall prepare and file with the Court, no later than **5:00 p.m. on January 6, 2014**, a Joint Proposed Scheduling Order, for discovery, motion and disclosure deadlines.

If the parties agree to the dates, they should prepare an Order **in the form attached hereto**, containing the provisions which are applicable to their case.

The Joint Proposed Scheduling Order shall include specific dates ("June 5, 2012", rather than "45 days prior to trial"). Please do not incorporate a firm trial date in the proposed Order. This Court will set a firm trial date only after discovery has been completed and the parties have in good faith participated in a mediation or settlement conference.

If counsel and/or the parties are unable to agree on any of the items that are to be included in the Order, the reasons for their inability to agree shall be set forth in their proposed Order.

Once the initial Joint Pretrial Scheduling Memorandum is submitted, the Court will review the Proposed Scheduling Order and schedule a telephonic pretrial status/scheduling conference (via separate minute entry). **At the telephonic pretrial status/scheduling conference, if the parties have completed discovery and are ready for trial, the Court will set a firm date for the Final Trial Management Conference and trial.** If the parties are not ready for trial, the matter may be placed on the Court's calendar for dismissal.

If, at any time, the parties believe a telephonic or in-person pretrial conference is necessary or warranted, they should address the reasons in the Joint Proposed Scheduling Order.

Notice Regarding Substantive Motions: The Court will not accept omnibus motions,
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responses and replies. All motions, responses and replies shall be filed on individual claims and counts separately. Counsel shall not combine any motion with a responsive pleading. If omnibus motions are filed, the Court reserves the right to reject the motions. No motion shall exceed the page limitation without prior Court approval.

If a Joint Proposed Scheduling Order is not timely submitted as ordered, the Court will place the matter on the Court's calendar for dismissal.

IT IS ORDERED if a **Notice of Settlement** is filed the Court will dismiss the case with prejudice within thirty (30) days from the receipt of the Notice of Settlement.

IT IS FURTHER ORDERED if there is a pending status conference scheduled with the Court, and the parties have settled the case, the parties must file a **Motion to Vacate Telephonic Pretrial Status/Scheduling Conference** within three (3) business days prior to the Court appearance or, in the alternative, shall be prepared to place a Rule 80(d) Agreement on the record.

The parties are encouraged to view Judge Duncan's online profile located at the Superior Court's website www.superiorcourt.maricopa.gov for additional information on appearing before Judge Duncan.

9:24 a.m. Matter concludes.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

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PROPOSED SCHEDULING ORDER
Ariz. R. Civ. P. Rule 16(b)

The Court having received the parties Joint Pretrial Scheduling Memorandum,

IT IS ORDERED entering the following schedule for disclosure as set forth unless the parties obtain written modifications by the Court:

1. The parties shall mutually and simultaneously disclose areas of expert testimony by 5:00 p.m. on _____. **[OR]**
 - a. Plaintiffs shall disclose areas of expert testimony by 5:00 p.m. on _____.
 - b. Defendants shall disclose areas of expert testimony by 5:00 p.m. on _____.
2. The parties shall mutually and simultaneously disclose the identity and opinions of their expert witnesses by 5:00 p.m. _____. **[OR]**
 - a. Plaintiffs shall disclose the identity and opinions of their expert witnesses by 5:00 p.m. on _____.
 - b. Defendants shall disclose the identity and opinions of their expert witnesses by 5:00 p.m. on _____.
3. Any and all discovery requests shall be served by 5:00 p.m. on _____.
4. The parties shall disclose all non-expert testimony by 5:00 p.m. on _____. **[OR]**
 - a. Plaintiffs shall disclose areas of non-expert testimony by 5:00 p.m. on _____.
 - b. Defendants shall disclose areas of non-expert testimony by 5:00 p.m. on _____.

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5. The parties shall mutually and simultaneously disclose their rebuttal expert witnesses and opinions by 5:00 p.m. on _____.
6. All discovery shall be completed by 5:00 p.m. on _____.
7. The parties shall have exchanged up-to-date final Rule 26.1 Supplemental Disclosure Statements by 5:00 p.m. on _____. This Order does not replace the parties' obligation to seasonably disclose on an on-going basis under Rule 26.1 as information becomes available.
8. The parties shall file dispositive motions no later than 5:00 p.m. on _____.
9. Settlement conference (**choose one**):

The parties shall participate in private mediation by **(120 days out)**.

[OR]

IT IS ORDERED the parties shall participate in a Settlement Conference. This case is referred to the Court's Office of Alternative Dispute Resolution for the appointment of a Judge Pro Tempore to conduct a Settlement Conference. Counsel and/or the parties will receive a minute entry from ADR appointing the Judge Pro Tempore. Counsel and any "pro per" parties will contact the appointed Judge Pro Tempore to arrange the date, time and location for the Settlement Conference. The Judge Pro Tempore is requested to conduct a Settlement Conference no later than **(120 days out)**. The Office of Alternative Dispute Resolution will not do the scheduling of the Settlement Conference so please do not contact that office.

If counsel prefer to use a private mediator to conduct the Settlement Conference, a **Stipulation and Order re: Alternative to ADR** must be presented to the Court no later than 5:00 p.m. on **(90 days out)**.

All counsel and their clients, non-lawyer representatives and insurance adjusters who have full and complete authority to settle the case, shall personally appear at the settlement conference and participate in good faith even if no settlement is expected. Sanctions may be imposed for failure to participate.

10. No expert witnesses, expert opinions, lay witnesses, or exhibits shall be used at trial other

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than those disclosed in a timely manner, except for good cause shown or written agreement of the parties.

11. Should any discovery disputes arise, counsel, prior to filing discovery motions, shall meet and confer pursuant to Rule 37, Ariz. R. Civ. P.
12. The dates set forth in this Order are FIRM dates and will not be extended or modified absent good cause. Lack of preparation will not ordinarily be considered good cause.
13. This case is removed from the Inactive Calendar and all requirements of Rule 38.1, Ariz. R. Civ. P., are waived unless and until otherwise ordered by the Court.
14. A **Telephonic Pretrial Status/Scheduling Conference** is set for _____, at _____ **a.m./p.m.** for the purpose of setting a trial date if the case has not settled. Time allotted: 15 minutes. Counsel shall have their trial calendars available. Counsel for Plaintiff shall initiate the conference call by first arranging the presence of all other counsel on the conference call and by calling this division at: **(602)506-9042** promptly at the scheduled time. The call should be placed from a land-line telephone in an area with no background noise as this will prevent the parties from hearing the proceedings in the courtroom. The call may not be placed from a vehicle. **Please do not call from a cellular telephone.**

NOTE: This Court utilizes FTR for an electronic record of the proceedings. However, any party may request the presence of a court reporter by contacting the division three (3) court business days before the scheduled hearing.

Dated: _____

HON. SALLY SCHNEIDER DUNCAN
JUDICIAL OFFICER OF THE SUPERIOR COURT