

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011316

12/03/2015

HON. ROGER E. BRODMAN

CLERK OF THE COURT
D. Harding
Deputy

MATTHEW HILLEBRAND, et al.

MARK BAINBRIDGE

v.

CAMELBACK GARDEN FARMS
HOMEOWNERS ASSOCIATION, et al.

GERARDO IVAN HANNEL

TRIAL SET
FINAL TRIAL MANAGEMENT CONFERENCE SETTING

Courtroom ECB-413

8:30 a.m. This is the time set for telephonic trial setting conference. Plaintiffs are represented by counsel, Mark Bainbridge. Defendants Leatherman and Luttrell are represented by counsel, G. Ival Hannel.

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

The parties advise that Camelback Garden Farms Homeowners Association has settled and a Stipulation to Dismiss with Prejudice will be filed.

Case status and scheduling are discussed.

The dispositive motion deadline is December 15, 2015 and both counsel advise they will be filing dispositive motions in this matter. Oral argument will be set after briefing is complete.

IT IS ORDERED as follows:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011316

12/03/2015

1. Setting a **3-day jury trial** on **June 13, 2016 at 9:30 a.m.** in this division. Trial days shall be: **June 13, 14 and 15, 2016.** PLEASE NOTE: Trials do not proceed on Fridays as Fridays are law and motion day for this division.
2. Setting a **final trial management conference** on **June 3, 2016 at 10:00 a.m.** (**time allotted: 1 hour**) in this division.

All parties must appear in person and may not appear telephonically.

Counsel are admonished that the court will not likely grant continuances or enlarge the number of days once a trial date has been scheduled, in view of the court's calendar.

8:40 a.m. Matter concludes.

DUTIES PRIOR TO THE FINAL TRIAL MANAGEMENT CONFERENCE

MOTIONS IN LIMINE. All motions *in limine* shall be filed no later than **5:00 p.m. on April 15, 2016** and 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). A written response to a motion *in limine* may be filed no later than ten (10) calendar days thereafter. The court may rule on motions *in limine* without oral argument. No replies shall be filed. The parties must comply with Rule 7.2(a) Ariz.R.Civ.P., prior to filing any motion *in limine*.

JOINT PRETRIAL STATEMENT. Counsel shall file and deliver to the trial Judge no later than **5:00 p.m. on June 6, 2016**, a copy of the **joint pretrial statement** signed by all counsel.

a) **Deposition Summary:** In addition to the information required by Rule 16(d), counsel shall at the final trial management conference provide to the court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.

b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the joint pretrial statement shall include an exhibit titled: **Final Trial Witness List**. This list shall contain the name of each witness a party actually

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011316

12/03/2015

intends to call at trial, the day on which they intend to call each witness and the **estimated time needed for direct, cross and re-direct examination.**

JURY INSTRUCTIONS; VOIR DIRE QUESTIONS. Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall deliver to the trial Judge, with their joint pretrial statement, copies of:

- c) Proposed voir dire questions.
- d) A joint set of agreed-upon preliminary and final jury instructions and proposed forms of verdicts.
- e) Separate sets of requested instructions that have not been agreed upon. Please read Rosen v. Knaub, 175 Ariz. 329; 857 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

Recommended Arizona Jury Instructions (RAJI) and non-RAJI instructions should be typed and submitted in WORD format. Each instruction should cover only one subject.

DUTIES AT FINAL TRIAL MANAGEMENT CONFERENCE

Counsel shall be prepared to discuss:

- f) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
- g) Stipulations for the foundation and authenticity of exhibits.
- h) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
- i) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
- j) Use of short-trial or summary jury trial.
- k) Any special scheduling or equipment issues.

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 the trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(d), Ariz.R.Civ.P.

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

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011316

12/03/2015

Judge Roger E. Brodman
Maricopa County Superior Court
East Court Building
101 West Jefferson Street
4th Floor, Courtroom 413
Phoenix, AZ 85003
Tel: 602-372-2943

NOTE: All court proceedings are recorded by audio and video method 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.

ATTORNEYS AND ASSISTANTS
PLEASE READ THE FOLLOWING CAREFULLY

Exhibits to be offered at trial shall be delivered to this division no later than 4:30 p.m. on **May 27, 2016**. (This date is set independently of the joint pretrial statement deadline.) Do not provide a “Judge’s Copy” of the exhibits.

EXHIBIT GUIDELINES:

- Exhibits shall be marked serially by number, plaintiff’s first; defendant’s exhibit numbers will begin where plaintiff’s numbers end.
- Confer with the other party to eliminate duplicate exhibits before presenting to the clerk.
- Submit a written list or inventory describing each exhibit; descriptions should be concise and can be as simple as “letter,” “e-mail,” or “photo”.
- Do **not** skip numbers, or describe exhibits as “blank” or “withdrawn”; do not “reserve” numbers for items not submitted to the clerk.
- Do not submit exhibits with subparts (e.g. exhibit 1a, 1b, 1c).
- Staple or otherwise secure each individual exhibit so that pages do not become separated.
- Separate exhibits by a colored sheet of paper with the exhibit number written on front.
- If an exhibit is too heavy or large for a hanging file folder, place it in a binder.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-011316

12/03/2015

- Do not mark depositions as exhibits; original depositions may be submitted to the division clerk to be filed and will be available for use during the trial.
- Blow-up charts and large items may only be used for demonstrative purposes. Counsel may bring blow-up charts and large items to court to use during trial; however, if counsel would like any blow-up charts or large items marked as an exhibit, they must provide the clerk with an 8-1/2 x 11 photograph of the item.
- Contact the clerk at 602-506-6928 if you have questions regarding exhibits.

The parties are reminded that, effective July 1, 2013, Maricopa County Local Rule of Practice 3.2 requires notices of settlement, stipulations to dismiss, and stipulations for the entry of judgment to contain a statement regarding whether such settlements or stipulations dispose of the entire case.