

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-011499

06/15/2023

HONORABLE DEWAIN D. FOX

CLERK OF THE COURT
J. Eaton
Deputy

PETER S DAVIS

COLIN F CAMPBELL

v.

U S BANK N A, et al.

AMANDA Z WEAVER

NICOLE GOODWIN
GEOFFREY M STURR
GREGORY J MARSHALL
PAUL J. FERA
JUDGE FOX

**JURY TRIAL SET
FINAL TRIAL MANAGEMENT CONFERENCE SET
EVIDENTIARY HEARING SET**

East Court Building – Courtroom 412

8:30 a.m. This is the time set for a Trial Setting Conference. The following parties appear via Court Connect: Plaintiff (Receiver) Peter S. Davis is represented by counsel, Colin F. Campbell and Geoffrey M. Sturr. Defendant U.S. Bank N.A. and Hilda H. Chaves are represented by counsel, Gregory J. Marshall. Defendants J.P. Morgan Chase Bank N.A., Samantha Nelson, Kristopher Nelson, Vikram Dadlani, and Unknown Dadlani are represented by counsel, Nicole Goodwin and by counsel, Paul J. Ferak, who appears *pro hac vice*.

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

The pending motions for summary judgment are addressed.

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IT IS ORDERED adding Plaintiff's April 19, 2023 Motion for Partial Summary Judgment on Liability of Hilda Chavez to the currently set virtual Oral Argument regarding Defendants Samantha Nelson and Kristofer Nelson's Motion for Summary Judgment, Defendant Vikram Dadlani and Jane Doe Dadlani's Motion for Summary Judgment, and Defendant JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment set on **September 22, 2023 at 1:30 p.m.** (time allotted: 2 hours).

9:35 a.m. Gregory J. Marshall exits the hearing due to his clients having reached a settlement pending approval by the receivership court.

The parties inform the Court that private mediation was unsuccessful and they are prepared to set a trial date. Counsel are directed to contact the Court as soon as possible if any of the parties have a conflict with the trial date. Accordingly,

IT IS ORDERED as follows:

1. Setting a Final Trial Management Conference on **June 14, 2024, at 1:30 p.m. (time allotted: 60 minutes)**. Lead counsel for all parties must appear in person and cannot appear telephonically.
2. Setting Trial to a Jury on **July 22, 2024, at 9:00 a.m. for jury selection. The remaining days of trial, July 23, 24, 25, 29, 30, 31, August 1, 5, 6, 7, 8, 12, and 13, 2024, will begin at 9:30 a.m. (time allotted: 14 days)**. PLEASE NOTE: Trial will not proceed on Fridays as Friday is Law and Motion day for this division.
3. Setting the deadline for the filing of any *Daubert* motions or Motions in Limine regarding experts and expert reports on **March 15, 2024**.
4. Setting an in-person Evidentiary Hearing on the anticipated *Daubert* motions/Motions in Limine regarding experts on **June 7, 2024, at 9:00 a.m. (time allotted: 3 hours)**.
5. Setting the deadline for the submittal of any exhibits for the *Daubert* evidentiary hearing as **May 28, 2024**. (Please follow below guidelines for exhibit submittal).
6. Requiring the remaining parties to complete an additional private mediation by **June 14, 2024**.

9:46 a.m. Matter concludes.

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Honorable Dewain D. Fox
101 W. Jefferson, East Court Building, Suite 412
Phoenix, AZ 85003
(602) 372-2260

TOTAL ESTIMATED TRIAL TIME: **14** days
Estimate should not exceed **63** total hours

Duties Prior to Trial Management Conference

1. Motions in Limine: All Motions in Limine shall be filed no later than **May 24, 2024** and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397; 499 P.2d 153 (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(d). A written response to a Motion in Limine may be filed no later than **June 10, 2024**. 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.

PLEASE NOTE: This division requires that all motions, responses, replies and other Court requested filings in this case must be submitted individually. Counsel shall not combine any motion with a responsive pleading. All motions are to be filed separately and designated as such. No pleadings will be accepted if filed in combination with another.

2. Joint Pretrial Statement: The parties shall file, no later than **June 4, 2024**, a Joint Pretrial Statement signed by all parties. The Court waives the requirement under Rule 16(f)(2)(A), (B) and (C) to include a list of stipulations, agreed contested issues or other issues considered material. Rather, the Joint Pretrial Statement shall contain a list of all claims or causes of action on which a verdict is sought by any party, specifying (1) the cause of action, (2) each party asserting that cause of action, and (3) each party against whom that cause of action is asserted. The parties also may submit one or more separate stipulations regarding facts, evidence or other matters.
3. Jury Instructions and Voir Dire Questions: The parties shall meet and agree on as many proposed jury instructions as possible. The parties shall file with their Joint Pretrial Statement:
 - a) Proposed voir dire questions.

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- b) A joint set of agreed-upon preliminary and final jury instructions and proposed forms of verdicts.
- c) Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329, 85 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) need not be typed and may be requested in the following manner: RAJI 3d Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed. Each instruction should cover only one subject.

Proposed preliminary and final jury instructions. Counsel shall confer prior to submitting proposed instructions in an effort to agree to jury instructions. Plaintiff shall file the proposed instructions to which all parties agree. Each party may file additional proposed instructions. To the extent that any party includes RAJI's that have multiple options or blanks to be filled in, that party shall file a proposed instruction with all necessary modifications. In addition to filing the proposed instructions, an electronic version in Word or Word-compatible format shall be provided to the Division's judicial assistant at: Melissa.Alvarez@JBAZMC.maricopa.gov and courtroom assistant: Karina.GarciaMunoz@JBAZMC.maricopa.gov.

Duties at Trial Management Conference

- 4. The parties shall be prepared to argue Motions in Limine if the Court deems necessary.
- 5. The parties shall be prepared to discuss:
 - a) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
 - b) Preliminary jury instructions, mini opening statements and voir dire.
 - c) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 - d) Any special scheduling or equipment issues.

EXHIBITS

- 6. At least three weeks prior to trial, counsel or their assistants shall contact the Clerk of this division at **602-506-0981**, regarding the proper procedures for submitting exhibits to be

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marked for trial in this division. Electronic exhibits may not be submitted for Jury Trials, however, the Clerk of Court is implementing a new digital evidence platform that MAY be in place prior to the commencement of this trial.

No later than **3:00 p.m. on July 3, 2024**, all parties shall deliver their exhibits. ***The parties are directed to meet to exchange the exhibits before coming to court and, to the extent possible, remove any duplicate exhibits.*** The parties should not reserve exhibit numbers for all Plaintiff's exhibits, all Defendant's exhibits, miscellaneous demonstrative exhibits, and the like. The parties shall also present original depositions for filing at that time.

Exhibits are marked in numerical order per party, making it necessary to mark all of one party's exhibits before marking the other party's. Accordingly, the Defendant's exhibits numbering shall start at the next number following the last of Plaintiff's exhibits. (For example, Plaintiff submits 82 exhibits, which are marked Exhibit 1 through 82. Defendant submits 63 exhibits, which are marked 83 through 145). Please do not combine the parties' exhibits. Each side's exhibits must be submitted separately and in numerical order.

IT IS ORDERED that any exhibit in excess of 20 pages shall be bates stamped.

With regard to trial exhibits, the parties are strongly discouraged from marking exhibits they do not anticipate using during trial. Each exhibit must be separately and securely bound by a staple or prong of some sort. Exhibits not securely bound or are bound with only a binder clip or rubber band will not be accepted and will be returned.

If the parties stipulate to any exhibits being received in evidence, the parties shall provide a signed stipulation as to said exhibits (**lack of objection to an exhibit in the Joint Pretrial Statement is not taken to signify that the exhibit is automatically received in evidence**). If large demonstrative exhibits are submitted for marking, a smaller version, such as a photograph, must also be provided in case the exhibit is received in evidence. If photographs are submitted for marking, each photograph must be marked as an individual exhibit unless counsel have stipulated to a set of photographs being admitted into evidence.

NOTICE: Exhibits Marked But Not Offered:

Exhibits submitted to the court for trial that are marked as exhibits but are not offered into evidence at the trial will be destroyed following the trial, unless a party requests that the evidence be returned at the conclusion of the trial. Such requests must be filed with the Court and served on all parties in advance of the trial or by no later than the conclusion of the trial.

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7. 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.
8. 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. The parties are reminded to promptly notify the Court of any settlement pursuant to Rule 5.3(d), Ariz. R. Civ. P.

NOTE: All court proceedings are made digitally in lieu of 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.