

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-013832

11/05/2019

HONORABLE DANIEL G. MARTIN

CLERK OF THE COURT
J. Eaton
Deputy

PETER S DAVIS

GEOFFREY M STURR

v.

CLARK HILL P L C, et al.

JOHN E DEWULF

COLIN F CAMPBELL
MARVIN C RUTH
JUDGE DANIEL MARTIN

**JURY TRIAL SET
FINAL TRIAL MANAGEMENT CONFERENCE SET**

East Court Building – Courtroom 412

8:49 a.m. This is the time set for a telephonic Status Conference. Plaintiff is represented by counsel, Geoffrey M. Stuff and Colin F. Campbell. Defendants are represented by counsel, John E. Dewulf and Marvin C. Ruth.

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

Discussion is held regarding pending motions, mediation, and the status of the case. The parties advise the Court they are prepared to set a trial date. Accordingly,

IT IS ORDERED as follows:

1. Setting a Final Trial Management Conference on **March 13, 2020, at 9:00 a.m.** (time allotted: **2 hours**). Lead counsel for all parties must appear in person and cannot appear telephonically.

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2. Setting Trial to a Jury on **April 13, 2020, at 9:00 a.m.** for jury selection. The remaining days of trial, **April 14, 15, 16, 20, 21, 22, 23, 27, 28, 29, 30, May 4, 5, 6, 7, 11, 12, 13, 14, will begin at 9:30 a.m.** (time allotted: **20 days**). PLEASE NOTE: Trial will not proceed on Fridays as Friday is Law and Motion day for this division. This case has been double booked with another trial. If the first case does not settle, this case may be placed into case transfer to be tried by another judicial officer.

Duties Prior to Trial

3. Motions in Limine: All Motions in Limine shall be filed no later than **February 21, 2020** 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 **March 9, 2020**. 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.

4. Joint Pretrial Statement: The parties shall file, no later than **March 3, 2020**, a Joint Pretrial Statement signed by all parties. In addition to the information required by Rule 16, the Joint Pretrial Statement shall include a Final Trial Witness List. This list shall contain the name of each witness a party actually 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**. (See Witness Information Form attached).
5. 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.
 - b) A joint set of agreed-upon preliminary and final jury instructions and proposed forms of verdicts.

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- 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: hendricksi@superiorcourt.maricopa.gov.

Duties at Trial Management Conference

- 6. The parties shall be prepared to argue Motions in Limine if the Court deems necessary.
- 7. 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

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

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No later than **March 26, 2020**, all parties shall deliver their exhibits to the clerk (**any deviation from this date must be approved by the clerk**). *The parties are directed to meet in person to exchange the exhibits before coming to court and, to the extent possible, remove any duplicate exhibits.* The clerk will not hold or reserve exhibit numbers for any party. If an exhibit has not been submitted by the time of marking, the clerk will assign the next exhibit with that number.

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

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.

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.

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

9. 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.
10. 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.

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NOTE: The proceedings will take place in the Superior Court's "e-courtroom." A record of the proceedings will be made digitally in lieu of a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a digital copy of the proceedings for a \$30.00 charge. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.**

NOTE: 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.

Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

9:01 a.m. Matter concludes.

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WITNESS INFORMATION FORM

Please note that there are approximately 4½ hours of trial time per day excluding two 15-minute breaks and 1½ hours for lunch. It generally takes a half day to select a jury unless it's a much longer trial.

VOIR DIRE EXAMINATION

TIME ESTIMATE FOR:	
PLAINTIFF(S) VOIR DIRE	
DEFENDANT(S) VOIR DIRE	

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

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WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT & RE-DIRECT	CROSS
1			
2			
3			
4			
5			
6			

DIRECT, RE-DIRECT & CROSS

TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____

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

TOTAL ESTIMATED TRIAL TIME: **20** days

Estimate should not exceed **90** total hours