

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-014151

09/26/2014

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT
T. Nosker
Deputy

CHERAE AQUIS

SCOTT A KLUNDT

v.

JAMES K SALAY

DAVID WENDALL WILLIAMS

MINUTE ENTRY

The court has reviewed and considered the following:

- Plaintiff's Motion in Limine Re: Exclusion of YouTube Video
- Defendant's Response to Plaintiff's Motion in Limine Regarding Exclusion of YouTube Video
- Plaintiff's Motion in Limine Re: Proffered Evidence Regarding Diminution in Value
- Defendant's Response to Plaintiff's Motion in Limine Re: Proffered Evidence Regarding Diminution in Value

YouTube Video

The images captured on the YouTube video depict the condition of the property at issue at a time related to the events in question; thus, the images are relevant. Assuming there is a witness who will testify that the video images accurately reflect the condition of the property and items at the time in question, the video images are admissible.

Any commentary on the video would be hearsay; thus, any commentary will need to be silenced during the showing of the YouTube video. Certainly, the witnesses may testify at trial regarding their impressions, observations and any alleged damages.

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IT IS ORDERED granting, in part, and denying, in part, the Motion in Limine Re: YouTube Video. The images may be shown but the commentary should not be audible.

Diminution in Value Evidence

The subject of the Motion in Limine should have been filed as a dispositive motion rather than a Motion in Limine but nevertheless, the court will address the Motion in Limine. Although the preference is to use the cost of repairs as an element of damages when a tenant has caused harm to the property of a landlord, when the cost of repair is not practicable a diminution in value argument may be made.

IT IS ORDERED denying the Plaintiff's Motion in Limine Re: Proffered Evidence Regarding Diminution in Value.