

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-001212

08/21/2017

HON. ROSA MROZ

CLERK OF THE COURT
B. Randhawa
Deputy

STATE OF ARIZONA, et al.

RON ASCHENBACH

v.

SURPRISE T C, I I HOLDINGS L L C, et al.

JAMES T BRASELTON

DAVINA DANA BRESSLER

TELEPHONIC STATUS CONFERENCE SET

East Court Building – Courtroom 414

8:47 a.m. This is the time set for a Telephonic Trial Setting Conference. Plaintiff State of Arizona is represented by counsel, Ron Aschenbach. Defendant Surprise TC II Holdings, LLC is represented by counsel, James T. Braselton. No one else appears.

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

Discussion is held regarding the status of the case.

The Court confirms Defendant Maricopa County's limited disclaimer of interest, hence non-appearance for the rest of the case.

The Court is advised that the parties are not ready to set trial. State's counsel has provided Defendant TC II Holdings, LLC with an updated ADOT appraisal which is presently being reviewed by said Defendant's appraiser. Upon review, the parties anticipate settlement within the next 30 days. Accordingly,

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IT IS ORDERED setting a **Telephonic Status Conference** to determine the status of settlement negotiations on **October 2, 2017 at 8:45 a.m.** (time allotted: 15 minutes) in this Division, before:

HONORABLE JUDGE ROSA MROZ
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
4TH FLOOR, COURTROOM 414
PHOENIX, AZ 85003
602-372-0384

Counsel for Plaintiff shall initiate the call by arranging the presence of all parties and contacting this Division's courtroom directly at **(602) 506-5518** at the time indicated above.

PRETRIAL ORDERS

In the event that the parties are unable to reach settlement, they shall make note of this Court's pretrial orders identified below. To the extent that the orders are inconsistent with any order that has been entered in this matter, including any scheduling order, this minute entry controls and the inconsistent language in any such previous order is vacated.

Discovery Disputes:

If a discovery dispute needs judicial intervention, the parties must first comply with Rule 37's meet and confer provision. Absent resolution, counsel for the movant shall email the Court's judicial assistant, Sandra Nageotte, at nageottes@superiorcourt.maricopa.gov, and all other counsel to advise them of his/her request for a telephonic hearing. Each party shall thereafter email the Court's Judicial Assistant a one-page summary of the dispute. Please make certain all parties are copied on the email. The emails will be filed with the clerk. Once the Court receives a summary from each party **and** a certification of compliance with Rule 37, the judicial assistant will email the parties to schedule a telephonic conference with the judge. These are generally held within 1 to 3 business days.

Motion Practice:

Do **not** combine pleadings. (Responses, replies, cross motions, etc., should each be filed as a separate pleading).

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A proposed order/judgment must be attached as a Word doc. using the proper turbo court code. All stipulations, joint scheduling reports, unopposed motions, etc., MUST contain a proposed order. If your system is not allowing you to attach a Word order, you must email a copy to this division's judicial assistant, Sandra Nageotte, at nageottes@superiorcourt.maricopa.gov, and she can attach it on our end.

ALL motions are held for a briefing period. If you need a determination sooner than a normal briefing period would allow, please do the following: 1. Speak with opposing counsel to make certain if they have an objection. If there is no objection, file a stipulation. 2. E-file the motion and email the filed document in Word format to the judicial assistant and opposing counsel. 3. Indicate that you are asking for a shortened briefing schedule and when you need a ruling. 4. The Court will review your request and email all parties with a briefing schedule if necessary.

If the parties have agreed to an extension of time for filing responses/replies, email my judicial assistant regarding the agreement. Otherwise, the Court may assume that no responses/replies will be filed and rule without the benefit of the response/reply.

Unless another order in this case establishes an earlier deadline, the deadline for filing a summary judgment motion is **120 days before trial**. No modification, including a stipulated modification, of this deadline will be honored absent a motion explaining why the 120-day deadline is impractical in the circumstances.

Motions in Limine:

The granting or denial of a motion *in limine* turns on whether the admission of evidence reaches the level of reversible error or a mistrial. Motions *in limine* are not granted "except upon a clear showing of non-admissibility." The parties shall not file motions denominated as "*in limine*" that are, in substance, late-filed motions for summary judgment.

1. Page Limit and Format: Neither the motion *in limine* nor the response may exceed **three pages**, including the caption. Showing that the motion has merit should not require more than that. Motions *in limine* shall be consecutively numbered in the caption identifying the party filing it and the subject of the motion; e.g. "Defendant's Motion in *Limine* No. 1 Re: Insurance Agreement," and shall deal with one discrete subject per motion. Do not respond to more than one motion in *limine* in each response.

Any motion *in limine* or response to such a motion should begin with a simple declarative sentence that identifies the evidence that is the subject of the motion, with the understanding that the broader the scope of the evidence to be excluded, the less likely it is that a motion *in limine*

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will be granted. The remainder of the motion or response should then explain why a mistrial or reversible error would or would not result if the motion is denied, with citations to authority that have reached the same conclusion in the same or similar circumstances (this also applies to motions *in limine* based on any failure to disclose, keeping in mind that nondisclosure implicates Ariz. R. Civ. P. 37(c)). If the motion is unable to explain why its denial would result in a mistrial or reversible error, the remainder should then demonstrate persuasively what efficiency, economy, or other benefit is to be gained by granting the motion.

2. Rule 7.2: Motions *in limine* shall be filed in accordance with Ariz.R.Civ.P. 7.2. Prior to filing any motion *in limine*, the parties through counsel must meet and confer to attempt to resolve issues to be raised by such motions, and any motions *in limine* must include a certification that counsel have so conferred.

3. Deadlines: The deadline for motions *in limine* is **30 days** before the final pretrial management conference. In both instances, responses must be filed **15 days** after service, and no replies should be filed unless requested.

4. Under Advisement: Although motions *in limine* will be considered as quickly as the court's schedule permits, they will not be taken under advisement any sooner than 15 days before the start of the trial, regardless of when they are filed. If the parties believe that a ruling on such a motion early in the case will facilitate settlement, they should notify this division (by telephone at (602) 372-0384 or e-mail to the judicial assistant) and every effort will be made to decide the issue as soon as time allows.

Daubert Motions:

Any motion brought for a *Daubert* hearing or brought under Ariz.R.Evid. 702, shall be filed at least **120 days** before the Final Trial Management Conference). Failure to file such a motion by this date shall constitute a waiver of (1) any objection that the expert is not qualified to render expert testimony, and/or (2) any objection that any opinion of the expert should be excluded under Ariz.R.Evid. 702.

Miscellaneous Issues:

NOTE: All court proceedings are recorded digitally 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

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days before the proceeding. The fee is \$140 for up to three hours and \$280 for any hearing in excess of three hours. This fee does not include preparation of transcripts.

Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$30.00 charge. If a CD is requested, please obtain a form from the Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center**. Attach the receipt showing payment of the fee and present both the receipt and the form to the bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.**

Requests for interpreters, court reporters or video conference must be made at least two weeks prior to your hearing date.

Oral Argument/Trial time will be divided equally between Plaintiff and Defendant. "When you are out of time, you are out of words."

If you are not familiar with this division's electronic equipment, please make an appointment with this division's bailiff, Timothy O'Pry, via email at opryt@superiorcourt.maricopa.gov, to test the equipment at least one week prior to your hearing.

Preferred communication with this division is via email to the judicial assistant, Sandra Nageotte, at nageottes@superiorcourt.maricopa.gov. We are able to respond much quicker to an email. Please make sure you endorse all parties involved in the case.

All inquiries regarding exhibit procedures should be directed to this division's courtroom clerk, Bal Randhawa, at (602) 506-8806.

Please take the time to review the full protocol for Judge Mroz on the Maricopa County Superior Court website.

8:51 a.m. Matter concludes.