

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-002687

10/16/2003

HON. FRANK T. GALATI

CLERK OF THE COURT
C. Danos/P. Sanderman
Deputy

FILED: 10/20/2003

MARK DURLING, et al.

CHARLES J MUCHMORE

v.

CITY OF PHOENIX, et al.

SHANNON M IVANYI

SUZANNE M DOHRER
RALPH E HUNSAKER

**TRIAL MINUTE ENTRY
DAY NINE**

10:07 a.m. Trial to a jury continues from October 15, 2003.

The jury is present.

Court reporter, Laura Ashbrook, is present.

Mark and Marianne Durling are present and represented by Charles Muchmore and Jake Curtis. Shannon Ivanyi and Ralph Hunsaker appear on behalf of defense.

Defendant City advises the court it sustains plaintiff's objection relative to Dr. Wallace.

The court advises the jury of the trial schedule.

PLAINTIFF'S CASE CONTINUES:

10:08 a.m. The court reporter is excused for the continued presentation of the video deposition of Kevin Wallace, M.D.

10:29 a.m. The proceeding is on the record.

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Court reporter, Laura Ashbrook, is present.

Argument is presented re: objections to depositions answers provided by Dr. Wallace.

The court overrules one objection and denies the others as reflected on the record.

Deposition testimony of Dr. Wallace continues by oral reading by counsel.

10:32 a.m. Court stands at recess.

10:40 a.m. Court reconvenes with respective parties and counsel.

The jury is present.

DEFENDANT CITY'S CASE:

Glen Ford is sworn and testifies.

Plaintiff's exhibit 392 is marked for identification.

Plaintiff's exhibit 392 is received in evidence.

The court received three jury questions, same are discussed with counsel, and the court asks the witness to provide answers to the jury.

FILED: Jury Questions (3)

The witness is excused.

Defendant City rests.

12:09 p.m. Court stands at recess.

1:35 p.m. Court reconvenes with the parties and respective counsel present. The jury is present.

Defendants' exhibit 393 is marked for identification.

Court reporter, Laura Ashbrook, is present.

DEFENDANT ACIC's CASE:

William Carrol Ray is sworn and testifies.

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2:30 p.m. Court stands at recess.

2:45 p.m. Court reconvenes with the parties and respective counsel present. The jury is present.

Court reporter, Laura Ashbrook, is present.

Defendants' exhibit 393 is offered and upon objection by plaintiffs' counsel is taken under advisement.

The witness is excused.

Defendant ACIC rests.

Both sides rest.

3:20 p.m. The jury is excused until **Monday, October 20, 2003 at 9:30 a.m.** and the trial proceeds.

Argument is heard with regard to defendants' exhibit 393.

Defendants' exhibit 393 is received in evidence.

Defense counsel moves for directed verdict with regard to ACIC as set forth on the record.

IT IS ORDERED denied.

Plaintiffs' counsel moves for breach of the appraisal portion of the policy as set forth on the record.

Argument is heard.

IT IS ORDERED denied.

Plaintiffs' counsel moves to renew the motion with regard to judgment as a matter of law that Mr. Whiteman not be a non-party at fault.

Argument is heard.

IT IS ORDERED granting the motion.

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Plaintiffs' counsel moves for reconsideration of their nuisance claim.

Argument is heard.

IT IS ORDERED denied.

3:55 p.m. Court stands at recess until **Monday, October 20, 2003.**