

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-019657

11/07/2011

JUDGE PRO TEM COLLEEN L. FRENCH

CLERK OF THE COURT
T. Melius
Deputy

JOHN V BACK JR.

FRANK L MURRAY

v.

K S APPRAISAL L L C, et al.

WENDY N WEIGAND

**THIS IS A TRIAL SETTING ORDER
PLEASE READ CAREFULLY FOR COMPLIANCE**

Courtroom 514- East Court Building

9:01 a.m. This is the time set for Telephonic Status/Scheduling Conference. Plaintiff is represented by counsel, Frank Murray. Defendants are represented by counsel, Wendy N. Weigand.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Case status is discussed. The court is advised that the parties participated in private mediation/a settlement conference but were unable to settle the matter.

IT IS ORDERED setting this matter for a 3 day trial to the court for **April 5, 2012, April 9, 2012 and April 10, 2012, at 9:30 a.m.** before:

**The Honorable Colleen French
Maricopa County Superior Court
East Court Building, Fifth Floor
101 West Jefferson, Courtroom 514
Phoenix, AZ 85003
Phone: 602-506-4567**

Trial days are normally 9:30 a.m. to 4:30 p.m., Monday through Thursday.

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This is a firm trial setting. A motion to continue based on lack of preparation will ordinarily not be granted.

IT IS ORDERED setting a Final Trial Management Conference for **March 16, 2012 at 9:00 a.m. (time allotted: 30)** in this Division. Counsel shall appear *in person* for the conference.

NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by calling this Division five (5) judicial days before the scheduled hearing.

9:07 a.m. Conference concludes.

Based upon the foregoing trial setting,

IT IS ORDERED as follows:

PRETRIAL PROCEEDINGS

All motions shall be filed no later than **February 6, 2012** so they can be scheduled, briefed, argued and decided prior to trial.

PRETRIAL STATEMENT AND MANAGEMENT CONFERENCE DUTIES

A joint pretrial statement (**JPTS**) is due by **March 12, 2012**. The following shall be filed with the **JPTS**:

- A. A list of all witnesses who the party intends to call at trial in the order in which the party intends to call the witness, together with the estimated time needed for direct, cross, and redirect examinations.
- B. A list, by page and line numbers, of all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, including designations of testimony that a party believes ought in fairness to be introduced pursuant to Rule 32(a) with testimony to be offered by an opponent. The court shall also be provided with copies of those parts of any such testimony to which objection is made, indicating the testimony objected to and the reasons for such objection. **Any objection not so included is waived.** Since jurors generally prefer narrative summaries,

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with brief excerpts of questions and answers, to reading many pages of testimony, the parties should confer as to whether agreed-upon summaries can be prepared.

- C. A list of all marked exhibits containing a brief description of each exhibit, as well as the objections, if any, to such exhibits and the reasons for such objection. **Any objections not so included are waived.**

At the FTMC, counsel who will try the case shall appear and be prepared to discuss and resolve:

- A. Stipulations and objections regarding witnesses and exhibits. If time permits, the court will rule on objections at the Pretrial Management Conference.
- B. Deposition summaries and excerpts from depositions including objections thereto.
- C. Scheduling, equipment, or interpreter issues.
- D. Status of settlement efforts.
- E. Motions *in limine* and other pending motions.
- F. Other matters addressed in the updated joint pretrial statement.

**ATTORNEYS AND ASSISTANTS
PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY**

- Exhibits to be offered at trial shall be delivered no later than **{insert date ~ same date at FTMC}** along with a brief description of each exhibit to this Division's clerk for marking. *Please provide a separate copy of exhibits to the court to be referenced by the Judge during the hearing.*
- Counsel may call this Division's clerk at 602-372-3189 before the above date to inform her of the number of exhibits and the date counsel intends to deliver their exhibits.
- Exhibits should be submitted to the clerk in a three-ring binder, each separated by a tabbed numbered divider. If exhibits are submitted without a binder, then they shall be

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separated by a colored sheet of paper with the exhibit number written on front. Each exhibit shall be clipped or bound if too large to be stapled.

- The list of exhibits should contain the case number and caption, the scheduled trial date, the party submitting the exhibits, the exhibit number, and a simple description of the exhibit. Keep the descriptions of the exhibits *simple*. Do not use a description that cannot be verified by looking at the document or item. *Do not include Bates numbers* in your description of the exhibits.
- Exhibits shall be marked numerically and consecutively beginning with Plaintiff's exhibits and continued sequentially with Defendant's exhibits (i.e. Plaintiff's exhibits 1, 2, 3, Defendant's exhibits 4, 5, 6). If exhibits are split, number the split exhibits as 1.001, 1.002, 1.003, etc. Letter designations such as 5(a), 5(b), 5 (c), etc. shall not be used. *Do not skip numbers*. Numbers will not be skipped or saved in anticipation of additional exhibits to be submitted. Any missing or skipped exhibits shall be designated as "*Unused*." Additional exhibits, if necessary, may be marked during the course of trial.
- Counsel shall eliminate duplication of exhibits as duplicate exhibits *will not* be marked. If duplicate exhibits exist and they are removed by the clerk and not marked, the court's numbering will not be consistent with the list counsel provide. Counsel shall, therefore, confer regarding exhibits to insure that there are no duplicates.
- *Do not list depositions* on the exhibit description list as depositions will not be marked as exhibits. Original depositions shall be provided to the clerk at the time of trial for filing into the court record. Counsel shall retain a copy of the depositions for their use during the trial as the original depositions remain with the clerk to be used as reference by the trial judge during testimony.
- Blow-up charts and large items may only be used for demonstrative purposes. Counsel may bring blow-up charts and large items to court to use during trial; however, if counsel would like any blow-up charts or large items marked as an exhibit, they must provide the clerk with an 8-1/2 x 11 photograph of the item.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.