

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-006868

07/16/2015

HON. ROGER E. BRODMAN

CLERK OF THE COURT
K. Ballard
Deputy

JAIME GAITAN, et al.

ROBERT A HENRY

v.

NATIONAL REAL ESTATE INFORMATION
SERVICES, et al.

STEVEN GREGORY JONES
DAXTON R WATSON

TRIAL SET
FINAL TRIAL MANAGEMENT CONFERENCE SETTING

Courtroom ECB-413

9:18 a.m. This is the time set for a telephonic trial-setting conference. All appearances are telephonic. Plaintiff Jaime Gaitan and Brantley Gaitan are represented by Counsel Robert A. Henry. Defendants Lana Marie Domino and Nationwide Appraisals are represented by Counsel Steven Gregory Jones. No other party is present or represented.

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

Discussion is held regarding the status of the case. Plaintiffs' counsel confirms that a settlement was reached with Defendants Tamargo and Tamargo Appraisal Group.

Plaintiff's counsel advises the Court that the parties have participated in a settlement conference. Counsel further advises the Court of an outstanding deposition.

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Defendants' counsel advises the court that he will be filing a dispositive motion shortly.

At the request of Plaintiffs, and there being no objection by Defendants,

IT IS ORDERED extending the deadline for Plaintiffs to respond to the forthcoming summary judgment motion. Plaintiffs will file their response no later than **September 4, 2015**. Defendants' reply will be filed within the time permitted by the Rules.

The Court encourages the parties to confer regarding a bench trial. If counsel are able to reach an agreement, they shall submit a stipulation regarding the same.

IT IS ORDERED as follows:

1. Setting a **2-day jury trial** for **November 9, 2015 at 9:30 a.m.** in this division. Trial days shall be: November 9, 2015 and November 10, 2015. PLEASE NOTE: Trials do not proceed on Fridays as Fridays are law and motion day for this division.
2. Setting a **final trial management conference** on **October 27, 2015 at 8:30 a.m. (time allotted: 30 minutes)** in this division.

All parties must appear in person and may not appear telephonically.

Counsel are admonished that the court will not likely grant continuances or enlarge the number of days once a trial date has been scheduled, in view of the court's calendar.

9:33 a.m. Matter concludes.

DUTIES PRIOR TO THE FINAL TRIAL MANAGEMENT CONFERENCE

MOTIONS IN LIMINE. All motions *in limine* shall be filed no later than **5:00 p.m. on September 10, 2015** and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397; 499 P.2d 152 (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(c). A written response to a motion *in limine* may be filed no later than ten (10) calendar days thereafter. 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*.

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JOINT PRETRIAL STATEMENT. Counsel shall file and deliver to the trial Judge no later than **5:00 p.m. on October 20, 2015** a copy of the **joint pretrial statement** signed by all counsel.

a) **Deposition Summary:** In addition to the information required by Rule 16(d), counsel shall at the final trial management conference provide to the court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.

b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the joint pretrial statement shall include an exhibit titled: **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**.

JURY INSTRUCTIONS; VOIR DIRE QUESTIONS. Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall deliver to the trial Judge, with their joint pretrial statement, copies of:

- c) Proposed voir dire questions.
- d) A joint set of agreed-upon preliminary and final jury instructions and proposed forms of verdicts.
- e) Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329; 857 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) and non-RAJI instructions should be typed and submitted in WORD format. Each instruction should cover only one subject.

DUTIES AT FINAL TRIAL MANAGEMENT CONFERENCE

Counsel shall be prepared to discuss:

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- f) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
- g) Stipulations for the foundation and authenticity of exhibits.
- h) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
- i) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
- j) Use of short-trial or summary jury trial.
- k) Any special scheduling or equipment issues.

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. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(d), Ariz.R.Civ.P.

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.

Judge Roger E. Brodman
Maricopa County Superior Court
East Court Building
101 West Jefferson Street
4th Floor, Courtroom 413
Phoenix, AZ 85003
Tel: 602.372-2943

Please Note: Judge Brodman's division is now an FTR division. Any requests for a court reporter will need to be made three (3) days prior to a hearing.

ATTORNEYS AND ASSISTANTS
PLEASE READ THE FOLLOWING CAREFULLY

Exhibits to be offered at trial shall be delivered to this division no later than 4:30 p.m. on **October 26, 2015**. (This date is set independently of the joint pretrial statement deadline.)

EXHIBIT GUIDELINES:

- Exhibits shall be marked serially by number, plaintiff's first; defendant's exhibit numbers will begin where plaintiff's numbers end.

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- Confer with the other party to eliminate duplicate exhibits before presenting to the clerk.
- Submit a written list or inventory describing each exhibit; descriptions should be concise and can be as simple as “letter,” “e-mail,” or “photo”.
- Do **not** skip numbers, or describe exhibits as “blank” or “withdrawn”; do not “reserve” numbers for items not submitted to the clerk.
- Do not submit exhibits with subparts (e.g. exhibit 1a, 1b, 1c).
- Staple or otherwise secure each individual exhibit so that pages do not become separated.
- Separate exhibits by a colored sheet of paper with the exhibit number written on front.
- If an exhibit is too heavy or large for a hanging file folder, place it in a binder.
- Do not mark depositions as exhibits; original depositions may be submitted to the division clerk to be filed and will be available for use during the trial.
- 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.
- Provide a separate copy of exhibits, in a binder with numbered tabs, to the court to be referenced by the Judge during trial; Alternatively, if counsel intends to submit more than 50 exhibits, please provide a courtesy copy of the exhibits in a thumb drive (flash drive) for the Judge to access on his computer (instead of in a binder); If any exhibits are spreadsheets, please provide an additional hard copy.
- Contact the clerk at 602.506.6928 if you have questions regarding exhibits.

The parties are reminded that, effective July 1, 2013, Maricopa County Local Rule of Practice 3.2 requires notices of settlement, stipulations to dismiss, and stipulations for the entry of judgment to contain a statement regarding whether such settlements or stipulations dispose of the entire case.