

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-012063

07/27/2011

HONORABLE GEORGE H. FOSTER, JR.

CLERK OF THE COURT
L. Timpauer
Deputy

RUTH E PEARCE

RUTH E PEARCE
6839 EAST HIGHLAND RD.
CAVE CREEK AZ 85331

v.

DOLORES & ROBERT VALDES, et al.

DOLORES & ROBERT VALDES
P.O. BOX 4107
CAVE CREEK AZ 85327

COURT ADMIN-CIVIL-CCC

**TRIAL MINUTE ENTRY
DAY THREE – MISTRIAL DECLARED**

Courtroom 811 – East Court Building

10:35 a.m. Trial to a jury continues. Plaintiff, Ruth E. Pearce, is present on her own behalf. Defendants, Robert and Dolores Valdes are present on their own behalf. The jury is not present.

Court Reporter, Amy Weaver, is present.

Outside the presence of the jury, discussion is held regarding trial witness scheduling and the matter of whether Defendants will be permitted to call Plaintiff as a witness in their case.

For reasons stated on the record,

IT IS ORDERED allowing Defendants to call the Plaintiff as a witness in their case.

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10:52 a.m. The jury is now present.

Ann Susko is sworn and testifies.

The Court has received a juror question relating to the possibility of the witness having performed an appraisal on a juror's home in the past.

FILED: Juror Question

The jury is excused to the jury room and the gallery is cleared.

The juror question is discussed with the parties and the witness.

The witness is temporarily excused and asked to leave the courtroom.

Juror #2 only is now present.

Discussion is held as to Juror #2's level of familiarity with the witness.

Juror #2 is excused and asked to return to the jury room.

LET THE RECORD REFLECT that neither party objects to Juror #2's prior professional encounter with the witness.

It has also come to the Court's attention, via the Bailiff, that Juror #6 has expressed concern over certain activity occurring between one of the gallery observers and the pro per Defendants.

11:30 a.m. Juror #6 and the Court Reporter are asked to appear in chambers to discuss the Juror's observations and concerns. The Courtroom Clerk is not present.

11:36 a.m. The Judicial Officer and the Court Reporter return to the courtroom. Juror #6 returns to the jury room with the remainder of the jury. The parties are all present.

Upon inquiry from the Court, Defendants confirm that the observer in question is a witness in this case, Adam Trent, who is also purported to be an attorney.

The Court notes that the Rule of Exclusion of Witnesses was clearly invoked by the Court at the Pretrial Management Conferences and at the beginning of this trial and further notes that it is unable to confirm that Mr. Trent is an attorney licensed to practice in Arizona.

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11:38 a.m. Court stands at recess. The parties remain in the Courtroom and the jury remains in the jury room.

11:43 a.m. Trial resumes with respective parties present. The jury remains in the jury room and the gallery remains cleared.

Court Reporter, Amy Weaver, is present.

For reasons stated on the record,

IT IS FURTHER ORDERED declaring a mistrial.

IT IS FURTHER ORDERED imposing jury fees on the Defendants for failing to abide by the Rule of Exclusion of Witnesses.

IT IS FURTHER ORDERED this Judicial Officer hereby recuses himself from this matter.

This matter is referred to Civil Court Administration for the appointment of a new Judge to hear this case.

11:49 a.m. Matter concludes.

FILED: Preliminary Instructions; Trial Worksheet; Juror Questions.

IT IS FURTHER ORDERED that jury fees be assessed against the Defendants, in the sum of **\$678.48**, all in accordance with the formal written Judgment for Jury Fees signed by the court on July 27, 2011, and filed (entered) by the clerk on July 27, 2011.

Pursuant to the declaration of a mistrial, and there being no further need to retain the exhibits in the custody of the Clerk of the Court,

IT IS FURTHER ORDERED permanently releasing all exhibits to the counsel/party causing them to be marked.

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.