

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-007346

05/06/2003

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
D. Whitford
Deputy

FILED: 05/08/2003

STATE OF ARIZONA, et al.

RON ASCHENBACH

v.

FEDERAL COMPRESS & WAREHOUSE
COMPANY IN, et al.

JOHN W PAULSEN
ANTHONY H MISSELDINE

**PRETRIAL CONFERENCE
TRIAL & PRETRIAL MANAGEMENT CONFERENCE SET**

8:45 a.m. (IN CHAMBERS) This is the time set for telephonic Rule 16 Pretrial Scheduling Conference. Plaintiff is represented by Assistant Attorney General Ron J. Aschenbach. Defendant Federal Compress & Warehouse is represented by counsel Anthony H. Misseldine, appearing for counsel Jay Dushoff.

The proceedings are recorded electronically in lieu of a court reporter.

Discussion ensues re: settlement.

IT IS ORDERED that any mediation/settlement conference shall be completed no later than **October 1, 2003**.

Pretrial matters are discussed.

IT IS ORDERED adopting the Stipulated Scheduling Order, signed by the Court May 6, 2003 as follows:

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1. The parties shall exchange appraisal reports on or before June 30, 2003
2. The parties shall disclose non-appraisal expert witnesses, the scope of testimony and reports, if any, on or before July 15, 2003.
3. The parties shall complete written discovery and disclosure by August 15, 2003.
4. The parties shall meet for a settlement conference before a privately retained mediator on or before October 1, 2003.
5. Motion in limine shall be filed no later than 30 days before trial.
6. The Joint Pretrial Statement shall be filed no later than 10 days before trial.
7. The 4-day jury trial shall begin December 9, 2003.

IT IS FURTHER ORDERED as follows:

I. Setting a firm jury trial for **December 9, 2003, at 9:00 a.m.,** before :

The Honorable Kenneth Fields
Maricopa County Superior Court
East Court Building
Courtroom 414
Phoenix, AZ 85003
PHONE: 602-506-2060

Time allotted for trial: **4 days**

ELECTRONIC ("E") COURTROOM

A record of the proceedings may be made by videotape in lieu of a court reporter. Should an official transcript be required, you may request that the Court prepare it. The party ordering the transcript must pay for it. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the Court's video-recording system before requesting a court reporter.

If a court reporter is required, a written request must be received by the Court at least 48 hours before the hearing.

A. Pretrial Motions

Motions in Limine shall be filed no later than **November 7, 2003**.
Responses shall be filed **no later than 2 judicial days before the final pretrial management conference**. There shall be no replies.

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All pretrial motions, other than Motions in Limine and Motions for Summary Judgment, as discussed below, shall be filed no later than **October 10, 2003**.

B. Discovery Cutoff

All written discovery shall be completed by **August 15, 2003**.

C. Dispositive Motions

All dispositive motions must be filed no later than **October 10, 2003**.

II. Pretrial Management Conference set:

- A. IT IS ORDERED** setting a 15-minute **telephonic** pretrial management conference is for **November 24, 2003 at 9:30 a.m.**, with **Plaintiff to initiate** call to this Division, telephone number **602-506-2060**.

Joint Pretrial Statement

The Joint Pretrial Statement (JPTS), in accordance with Rule 16(d), Arizona Rules of Civil Procedure, is due in this Division by **five days prior to the Pretrial Management Conference**. Counsel are to notify the Court at that time if an interpreter or any special equipment will be needed during trial.

In addition to the information required by the Arizona Rules of Civil Procedure Rule 16(d), counsel are to identify in the JPTS all deposition or other transcribed testimony that may be offered at trial. The proposed testimony is to be identified by reference to page and line numbers. Objections and the reasons for objections to such testimony, if any, are also to be set forth.

Also, with the JPTS, counsel shall deliver to this Division, copies of the following:

Proposed voir dire questions.

A joint set of agreed-upon preliminary and final jury instructions are to be submitted on disk in Word format.

Separate sets of requested instructions that have not been agreed upon are to be submitted on disk in Word format. 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 the request for non-RAJI instructions.

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Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.

In trial by jury, the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of voir dire.

Settlement

If the case is set for a jury trial, 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 trial.

If the parties wish a settlement conference under Rule 16.1, Arizona Rules of Civil Procedure, they are to file a request with the Court, whereupon a Judge Pro Tem will be appointed by DRAO. Alternatively, the parties are encouraged to hire their own mediator to conduct the conference at a time and place convenient to the parties.

Exhibits

Counsel shall deliver to the Division the parties' exhibits along with an Exhibit Description Form [a hard copy plus (IF POSSIBLE) on an IBM-Compatible, 3.5 diskette in Microsoft Word 95 or 97] no later than **5 days prior to trial**. Counsel may call the clerk, and request that she e-mail to counsel a blank Exhibit Description Form for counsel to fill in and e-mail back to the clerk (then no need for diskette). Identify each exhibit with its number; for example, attach a Post-it Note to each exhibit or separate each exhibit with a sheet of paper with the exhibit number written on it. If counsel have more than 100 exhibits each, submit exhibits in a three-ring binder with numbered-tabbed sheets separating each. A second copy of the exhibits is appreciated for use by Judge Fields.

Examples of the Exhibit Description Form are on the following pages of this minute entry. Please duplicate this form **exactly**, creating as many rows as there are exhibits, and follow these instructions:

(1) Counsel shall call (602-506-8806) before the above date to inform the clerk, of the number of exhibits and the date counsel intend to deliver the exhibits, along with the Exhibit Description Form, to the Division prior to trial. When counsel calls, the clerk shall provide counsel with a block of numbers for numbering that party's exhibits on the Exhibit Description Form. If counsel intend to submit more than 25 exhibits each, counsel shall make arrangements with the clerk to provide assistance with attaching the exhibit tags to the exhibits at the time the exhibits are delivered to the Division prior to trial or counsel may send a runner to the Division to pick up the tags in order for counsel to attach the tags to the exhibits at counsel's office (inform the clerk of this election prior to pickup).

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- (2) The exhibits shall be numbered serially -- 1, 2, etc., **not** 1(a), 1(b); numbers shall **not** be skipped;
- (3) Counsel shall do their best to eliminate duplication of exhibits.
- (4) **Do not list depositions** on the Exhibit Description Form; they are filed in separately by the clerk.
- (5) List **only** the exhibits delivered to the clerk prior to trial. Do **not** list exhibits to be delivered at a later date, introduced at trial, or opposing party's exhibits.
- (6) The following heading of the Exhibit Description Form **must appear at the top of all pages of the form:**

Caption: John Doe v. Jane Doe

Cause No.: CV 99-00210

EXAMPLE FOR PLAINTIFF

Caption: John Doe v. Jane Doe Cause No.: CV1999-000210

Plaintiff's Exhibits (*All exhibits are copies unless noted*)

1. Letter to John Doe from Jim Smith, 1/1/98
2. Medical records of John Henry Hospital, 1994-98
3. Deed to 1101 N. Central Avenue, Phoenix, AZ, 1/1/98

EXAMPLE FOR DEFENDANT

Caption: John Doe v. Jane Doe Cause No.: CV 1999-000210

Defendant's Exhibits (*All exhibits are copies unless noted*)

4. Letter to Henry Johnson from Carol Smith, 1/1/99
5. Medical records from Dr. J. Brown, 1994-98
6. Deed to 7201 N. Washington St, Phoenix, AZ, 1/1/98

(7) Bring the completed Exhibit Description Form and numbered exhibits to Judge Fields' Division (ECB, 414) along with the description of all exhibits on disk. You can also Email your exhibit list to: dwhitfor@COSC.maricopa.gov.

(8) If there are any questions **concerning exhibits**, please call. All other questions are to be directed to the Division's Judicial Assistant.

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- (9) Keep the descriptions simple. Include type of document and date of document.
- (10) Don't include the bates #s (should you use bates #s) in your descriptions of the exhibits.
- (11) Please provide descriptions of exhibits on a floppy disk when you bring the exhibits to the clerk at least 5 days prior to trial/hearing.**

Thank you for your cooperation.
(602-506-8806)
Clerk of Judge Fields' Division

8:47 a.m. Conference concludes.

NOTICE

New Fee for Copies of Electronically Recorded Proceedings

Effective Monday, January 27, 2003, a fee of \$20.00 will be charged for each copy of superior court proceedings digitally recorded and provided on compact Disc (CD) and for each copy of a superior court proceeding provided on videotape. The fee is due when the CD or videotape is picked up. Cash and in-state checks will be accepted for payment. Please make checks payable to: Clerk of the Superior Court.

Blank, unused CDs and videotapes will not be accepted in lieu of payment.

Beginning Monday, January 27, 2003, the pick up location for CD or videotape copies of superior court proceedings recorded in downtown Phoenix will be the court's Self Service Center located in the Law Library on the first floor of the East Court Building. Fees will be collected at the Self Service Center. Copies of superior court proceedings recorded at the court's Southeast Facility in Mesa and at the court's Northwest Facility in Surprise may be picked up, and fees paid, at the Self Service Centers at those locations.

Questions may be directed to Ken Crenshaw, Administrator, Electronic Records Services, 602-506-7100 or kcrensha@superiorcourt.maricopa.gov

Request for Daily Copy of Electronically Recorded Proceedings

Obtain a form from the courtroom clerk or 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 fee and present both the receipt and the form to the courtroom

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clerk or bailiff. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.