

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-022070

08/04/2004

JUDGE PENDLETON GAINES

CLERK OF THE COURT
W. Bobrowski
Deputy

FILED: 08/06/2004

CITY OF PHOENIX

JANIS M HAUG

v.

JOHN C OERTLE JR., et al.

JOHN C OERTLE JR.
9830 S 51ST ST STE A129
PHOENIX AZ 85044

BETH O HINTZE
2714 E TURNEY
PHOENIX AZ 85016
JERALD A HINTZE
2714 E TURNEY
PHOENIX AZ 85016
THOMAS HORNSBY
624 W HOWE ST
TEMPE AZ 85281
WILLIAM R METTLER JR.
RHONDA OERTLE
9830 S 51ST ST STE A129
PHOENIX AZ 85044
LISA AND RANDALL OERTLE
MELANCON
12038 S TONALEA DRIVE
PHOENIX AZ 85044

CONTINUED PRETRIAL CONFERENCE SET

8:32 a.m. This is the time set for Oral Argument Re: Defendants' Motion to Extend Discovery and Motion to Substitute Experts. Plaintiff is represented by counsel, Janis Haug. Defendant John Oertle appears telephonically on his own behalf. Defendant Thomas Hornsby

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appears on his own behalf. Defendant Beth Hintze appears on her own behalf. Defendant Kent Oertle is present and represented by counsel, William Mettler.

Court Reporter, Michael Vacca, is present.

History of the case is discussed.

Argument is heard on Defendants' Motion to Extend Discovery and Motion to Substitute Experts.

IT IS ORDERED as follows:

1. Defendants CJO Trust, Kent Oertle and Mary Oertle, Trustees, and CJO, LLC's Motion to Extend Discovery and Motion to Substitute Experts is granted conditionally as follows:
 - a. All Defendants will be required to pay to the City of Phoenix (1) costs associated with deposing David Lyons, including court reporter and attorneys' fees, and the expert witness fees associated with responding to Mr. Lyons' report, and (2) costs associated with deposing Mr. Zwagerman, including court reporter and attorneys fees and expert witness fees associated with responding to Mr. Zwagerman's report.
 - b. Ms. Haug is directed to submit a statement of costs to Defendants not later than August 13, 2004. Defendants are directed to either pay those amounts or object in writing not later than August 20, 2004. If the sums are not paid by August 20, 2004, the Defendants will not be permitted to use their new expert, Mr. Sanders.
2. Assuming paragraph 1 of this order is complied with, Plaintiff City of Phoenix may take Mr. Sanders' deposition on or before September 15, 2004. The City of Phoenix will have until October 15, 2004 to cross-designate either a new rebuttal expert or new rebuttal opinions by its expert and supply that disclosure to the Defendants. The Defendants will then have until October 31, 2004 to conclude that expert's deposition.
3. Mr. Sanders will be Defendants' only expert witness.
4. The parties are directed to reset their mediation before Judge Meyerson not later than November, 2004.
5. Mr. Lyons' deposition and appraisal may be used by the City at trial.

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6. The telephonic Pretrial Conference set for **September 10, 2004, at 11:00 a.m.** (15 minutes) will remain set as a telephonic Status Conference to review the parties' compliance with this order. Counsel for the City is to initiate the phone conference.
7. The Court sets a Continued Pretrial Conference on **December 10, 2004 at 11:30 a.m.** in this division, to set a 3 or 4 day trial date.

8:59 a.m. Hearing concludes.