

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003378
CONSOL

10/18/2005

HONORABLE REBECCA A. ALBRECHT

CLERK OF THE COURT
R. Tomlinson/K. Ballard
Deputy

FILED: 10/20/2005

OSTEN ART INC

MAUREEN A WELSH

v.

DROR DAREL, et al.

PHIL S FLEMMING

TRIAL MINUTE ENTRY
DAY 1

Prior to the commencement of trial,

Plaintiff's exhibits 1-280 and Defendants' exhibits 287-298, 302, and 304-314 are marked for identification.

Pursuant to stipulation of the parties,

Plaintiff's exhibits 1, 2, 22, 31, 34-270, 273, and 274 and Defendants' exhibits 310 and 311 are received in evidence.

DEPOSITIONS FILED:

1. Harry G. Uphouse, III, dated April 14, 2005
2. Harry G. Uphouse, III, Volume II, dated August 15, 2005
3. Judith Schnurr, dated August 9, 2005
4. Gary Schnurr, dated August 9, 2005
5. Love Patrene, dated May 9, 2005
6. Nicholas McNosky, dated April 13, 2005
7. Christopher Macon, dated March 17, 2005
8. Antonia Jenkins, dated March 16, 2005
9. Thomas William Giller, dated August 4, 2005

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10. Christopher Channon, dated March 24, 2005
11. Rene Boze, dated August 23, 2004
12. Rene Boze, dated January 12, 2005
13. Michael J. Boze, dated August 23, 2004
14. Michael James Boze, Volume II, dated January 12, 2005
15. Tracy Lynn Penwell, dated June 22, 2005
16. Tracy Lynn Penwell, Volume II, dated June 30, 2005
17. Dror Darel, dated June 21, 2005
18. Dror Darel, Volume II, dated June 24, 2005
19. Victor J. Ostrovsky, dated March 28, 2005
20. Victor J. Ostrovsky, dated June 28, 2005
21. Nelson Knapp, dated July 26, 2005
22. John H. Young, dated March 24, 2005
23. Kathleen Duley, dated March 29, 2005
24. Kathleen Duley, Volume II, dated October 3, 2005

9:42 a.m. This is the time set for Trial to the Court. Plaintiff Osten Art, Inc. is represented by Maureen Welsh. Defendants Dror Darel and Tracy Penwell are present and represented by Phil Flemming, who also represents Defendant Beseder, Inc. Also present is Victor Ostrovsky, the owner of Osten Art.

Court reporter, Antoinette Salazar, is present.

Counsel are advised that based upon the time available for this trial, the Court is allotting each side 4.5 hours for presentation of their respective cases.

Counsel stipulate that the witnesses will be fully examined at the time the witnesses are called regardless of which party is calling the witness.

Opening statements.

9:45 a.m. LET THE RECORD REFLECT John Kerkorian, co-counsel for Plaintiff, is now present.

Plaintiff's case:

Dror Darel is sworn and testifies.

Plaintiff's exhibit 6 is received in evidence.

Plaintiff's exhibit 13 is received in evidence.

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Plaintiff's exhibit 17 is received in evidence.

10:56 a.m. Court stands at recess.

11:17 a.m. Court reconvenes with respective counsel and the parties present.

Court reporter, Antoinette Salazar, is present.

Dror Darel retakes the stand and testifies further.

12:08 p.m. Court stands at recess.

LET THE RECORD REFLECT counsel for the Plaintiff advises the clerk (as directed by the Court) of the appraisal exhibits being offered by the Plaintiff based on Mr. Darel's testimony; however, the exhibits are not received in evidence at this time.

1:39 p.m. Court reconvenes with respective counsel and the parties present.

Court reporter, Antoinette Salazar, is present.

Dror Darel retakes the stand and testifies further.

Victor Ostrovsky is sworn and testifies.

Defendants' exhibit 287 is received in evidence (on the condition set forth on the record by the Court) at the request of Plaintiff.

Plaintiff's exhibit 18 is received in evidence.

3:12 p.m. Court stands at recess.

3:30 p.m. Court reconvenes with respective counsel and the parties present.

Court reporter, Antoinette Salazar, is present.

Victor Ostrovsky retakes the stand and testifies further.

Tracy Penwell is sworn and testifies.

Scheduling is reviewed.

4:27 p.m. Court stands at recess until 9:30 a.m. on October 19, 2005.

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