

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-003378
CONSOL

10/19/2005

HONORABLE REBECCA A. ALBRECHT

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

FILED: 10/24/2005

OSTEN ART INC

MAUREEN A WELSH

v.

DROR DAREL, et al.

PHIL S FLEMMING

MATTER TAKEN UNDER ADVISEMENT
TRIAL MINUTE ENTRY
DAY 2

9:29 a.m. Trial to the Court continues from October 18, 2005. Plaintiff Osten Art, Inc. is represented by Maureen A. Welsh and John Kerkorian. 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.

Plaintiff's case continues:

Tracy Penwell retakes the stand and testifies further.

Defendants' exhibit 296 is received in evidence.

Baron Abboud is sworn and testifies.

Nelson Knapp is sworn and testifies.

John H. Young is sworn and testifies.

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LET THE RECORD REFLECT Plaintiff's exhibits 3, 4, 5, 7, 9, 10, 14, and 15 are received in evidence (referenced on the record as the appraisal exhibits).

10:42 a.m. Court stands at recess.

11:12 a.m. Court reconvenes with respective counsel and the parties present.

Court reporter, Antoinette Salazar, is present.

LET THE RECORD REFLECT the following defense witness is being called out of order.

Sylvia Coccozza is sworn and testifies.

11:18 a.m. Court stands at recess.

1:27 p.m. Court reconvenes with respective counsel and the parties present.

Court reporter, Antoinette Salazar, is present.

Love C. Patrene is sworn and testifies.

Plaintiff rests with the exception of the Court considering certain deposition designations and the objections thereto.

With regard to any Motion for Directed Verdict Defendants would make at this time, given the status of the deposition designations, counsel may submit their Motion for Directed Verdict with Defendants' written summation.

Defendants' case:

Christopher Gregory Macon is sworn and testifies.

Michael J. Boze is sworn and testifies.

Defendants rest.

Rebuttal:

Victor Ostrovsky retakes the stand and testifies further.

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LET THE RECORD REFLECT counsel have stipulated to submit written summations in lieu of presenting closing arguments.

IT IS ORDERED directing the parties to simultaneously submit their written summations to the Court no later than **5:00 p.m. on October 26, 2005**.

Plaintiff's counsel offers the following depositions (as designated in the Joint Pretrial Statement) as further testimony in this matter:

1. Harry G. Uphouse, III, dated April 14, 2005
2. Judith Schnurr, dated August 9, 2005
3. Gary Schnurr, dated August 9, 2005

Upon receipt of the parties' written summations, this matter will be deemed under advisement.

The presentation of evidence having concluded, and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

2:49 p.m. Court adjourns.