

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-019327 (CONSOL.)

06/07/2006

HONORABLE PAUL J. MCMURDIE

CLERK OF THE COURT
C.I. Miller
Deputy

FILED: 06/09/2006

NICHOLA TAVILLA, et al.

RICHARD T TREON
DANIEL B TREON

v.

EMPLOYERS MUTUAL CASUALTY
INSURANCE COM, et al.

WILLIAM H DOUGLAS

TRIAL MINUTE ENTRY
DAY 10

9:17 a.m. Trial to a jury continues from June 6, 2006. Plaintiffs are represented by co-counsel, Richard Treon and Daniel Treon. Defendant EMC is represented by counsel, William Douglas, who is assisted by Michael Boyce, company representative. The jury is not present.

Cindy Benner, Court Reporter, is present.

The court announces trial time used by respective counsel as of June 7, 2006 as follows:

Plaintiffs' time used: 3 ½ hrs. = Left: 1 ½ hrs.

Defendant's time used: 2 hrs. = Left: 22 hrs. & 15 mins.

9:20 a.m. Plaintiff Donna Tavilla is now present in the courtroom.

The court indicates that it will allow Plaintiff an additional hour based on extra time accumulated. The court will enforce the time limits imposed.

Plaintiffs' counsel advises that Mr. Nicola Tavilla is currently in the hospital and is not available for testimony.

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9:25 a.m. The jury is now present in the courtroom and the trial proceeds.

Plaintiffs' case continues:

James Faulkner is sworn and testifies.

Plaintiffs' exhibits 254, 70, 184, 122, and 234 are received in evidence.

10:49 a.m. Court stands at recess.

11:05 a.m. Court reconvenes with respective parties and counsel present. The jury is present.

Cindy Benner, Court Reporter, is present.

James Faulkner resumes the stand and testifies further.

Plaintiffs' exhibit 14 is received in evidence.

Plaintiffs' exhibit 287 is offered, but not received in evidence.

Plaintiffs' exhibits 86, 143, and 176 are received in evidence.

12:03 p.m. The jury is excused and leaves the courtroom. Court remains in session.

Trial scheduling is discussed.

12:14 p.m. Court stands at recess.

1:17 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

Cindy Benner, Court Reporter, is present.

James Faulkner resumes the stand and testifies.

On stipulation the remaining balance of Defendant's exhibit 186 is received in evidence.

On stipulation, Defendant's exhibits 98 and 110 are received in evidence.

The court has received several juror questions, same are discussed with counsel at the bench and the court asks the witness the questions.

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FILED: Juror Question (9)

Witness is excused.

Donna Tavilla is recalled to the stand and testifies further.

Plaintiffs' exhibits 20, 21 and 22 are offered, but not received in evidence.

2:37 p.m. Court stands at recess.

2:57 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

Cindy Benner, Court Reporter, is present.

Plaintiffs' counsel now reads excerpts of the Depositions of Charles Highland Herrold dated September 11, 2003 and February 10, 2005 to the court and jury, waiving the presence of the court reporter.

Plaintiffs rest.

5:00 p.m. The jury is excused for the evening recess, advised that court will stand at recess until 9:15 a.m., June 13, 2006, and leaves the courtroom. Court remains in session.

Plaintiffs' counsel moves to reopen and makes an offer of proof.

IT IS ORDERED denying Plaintiffs' motion to reopen.

Plaintiffs' counsel moves to strike Juror No. 8 as an alternate.

IT IS ORDERED denying the motion at this time, subject to counsel submitting a written motion setting forth case law for the court to consider.

Defendant's counsel moves for judgment as a matter of law on the issue of punitive damages and argument is heard.

IT IS ORDERED taking Defendant's motion under advisement, subject to Plaintiffs' counsel presenting a written response **no later than 12:00 noon, June 12, 2006.**

Defendant's counsel moves for judgment as a matter of law on the issue of no additional monies are due and owing under the contract.

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IT IS ORDERED taking Defendant's motion under advisement, subject to Plaintiffs' counsel presenting a written response **no later than 12:00 noon, June 12, 2006.**

Defendant's counsel moves for judgment as a matter of law on the issue that the demand for appraisal was not properly made and there is nothing left to appraise.

IT IS ORDERED taking Defendant's motion under advisement, subject to Plaintiffs' counsel presenting a written response **no later than 12:00 noon, June 12, 2006.**

Defendant's counsel moves for judgment as a matter of law on the issue of both Nichola Tavilla's and the Tavilla Children's emotional distress.

IT IS ORDERED taking Defendant's motion under advisement, subject to Plaintiffs' counsel presenting a written response **no later than 12:00 noon, June 12, 2006.**

Counsel for Defendant may file simultaneous pleadings regarding the motions **no later than 12:00 noon, June 12, 2006.**

5:23 p.m. Court stands at recess until 9:15 a.m., June 13, 2006.