

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-010063
(Consol.)

05/29/2008

HONORABLE PETER SWANN

CLERK OF THE COURT
D. Monroe
Deputy

PHOENIX CITY, et al.

STEPHANIE HEIZER

v.

OSVALDO G LOPEZ, et al.

STEVEN A HIRSCH

ELAINE F GORDON
NO ADDRESS ON RECORD
RICHARD L GORDON
NO ADDRESS ON RECORD
JOHN W PAULSEN

MINUTE ENTRY

8:30 a.m. This is the time set for Status Conference. Plaintiff, City of Phoenix, is represented by counsel, Charles K. Ayers and Stephanie Heizer. Defendants, Osvaldo G. Lopez, Lydia G. Lopez, Chelsea West Lofts, L.L.C., and Norman E. Fox, are represented by counsel, Steven A. Hirsch.

Court Reporter, Judie Bryant, is present.

The Court has received and reviewed the parties' Joint Pretrial Memorandum, Joint Motion to Set for Trial, Plaintiff's Motion in Limine to Exclude Testimony from Certain Witnesses, Plaintiff's Motion in Limine to Exclude Evidence of Future Plans for the Property and Plaintiff's Motion in Limine to Exclude Evidence of City's Prefiling Offer and Appraisal.

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Discussion is held and argument is heard regarding trial, motions in limine, and scheduling.

IT IS ORDERED denying Plaintiff's Motion in Limine to Exclude Testimony from Certain Witnesses and Plaintiff's Motion in Limine to Exclude Evidence of City's Prefiling Offer and Appraisal as moot.

IT IS FURTHER ORDERED denying Plaintiff's Motion in Limine to Exclude Evidence of Future Plans for the Property without prejudice, based on the Court's understanding of what will be offered by Mr. Martori.

IT IS FURTHER ORDERED setting a Bench Trial on **July 23, 2008, at 9:30 a.m. (time allotted: 2 days)** before:

**HONORABLE PETER B. SWANN
MARICOPA COUNTY SUPERIOR COURT
CENTRAL COURT BUILDING
201 W. JEFFERSON
7TH FLOOR, COURTROOM 701
PHOENIX, AZ 85003
602-506-7959 TEL
602-372-8545 FAX**

THIS IS A FIRM TRIAL SETTING.

IT IS FURTHER ORDERED that Trial Memoranda be filed by July 18, 2008, if counsel choose to file such memoranda.

IT IS FURTHER ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ.P., is due in this division **before Noon on July 21, 2008.**

Proposed Facts and Conclusions of Law are not being requested.

IT IS FURTHER ORDERED that should any discovery disputes arise, prior to filing discovery motions, counsel shall MEET AND CONFER pursuant to Rule 37, then telephonically contact the court to set up a telephonic conference before any motions are filed.

8:55 a.m. Matter concludes.

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Let the record reflect that the parties have requested the presence of a Court Reporter for the Bench Trial.

MARKING EXHIBITS

At least five judicial days before Trial or before Noon on July 21, 2008, the trial lawyers or their knowledgeable assistants shall appear in this division to present all exhibits. The exhibits will be marked serially as they are listed in the LIST OF EXHIBITS which will be prepared by counsel. The parties shall advise the division, referring specifically to the pretrial statement, which exhibits may be marked directly in evidence. All exhibits will be clearly marked to correspond with the list provided. ***Counsel are directed to meet in person to exchange the exhibits before coming to court. Counsel will make sure that they do not bring to the clerk a set of exhibits that include duplicate exhibits.*** Counsel should not reserve exhibit numbers for all Defendant's exhibits, all Plaintiff's exhibits, miscellaneous demonstrative exhibits, and the like. Counsel shall also present original depositions for filing at that time. Written stipulations to admit specified exhibits in evidence are encouraged.

Please note that the Court utilizes the Exhibit Tracking System (ETS) for the marking of exhibits. The exhibits are marked in numerical order per party, making it necessary to mark all of one party's exhibits before marking the other party's. Accordingly, the Defendant's exhibits numbering shall start at the next number following the last of Plaintiff's exhibits. (For example, Plaintiff submits 82 exhibits, which are marked Exhibit 1 through 82. Defendant submits 63 exhibits, which are marked 83 through 145). Please do not combine the parties' exhibits. Each side's exhibits must be submitted separately and in numerical order.

The Court will hear and rule upon objections prior to commencement of trial. The rulings will be stated on the record, using exhibit numbers. All objections to known exhibits and witnesses must be made before the trial date or will be deemed to have been waived.

ATTACHED: Time Estimates Form:

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CAUSE NUMBER _____
CASE CAPTION _____
PLAINTIFF'S COUNSEL _____
DEFENDANT'S COUNSEL _____

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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GUIDELINES FOR COUNSEL WHEN PREPARING EXHIBIT FOR USE IN COURT

Exhibits are due to the Court five business days prior to the pretrial management conference.

Counsel are to provide a workable list of exhibits. The list should include a description of each exhibit. (See blank sample of an exhibit table below as a reference.) The list may be the same as that contained in the Joint Pretrial Statement. Do not put numbers on the exhibits.

Exhibit Description Information:

The descriptions should be verifiable when viewing the exhibit. Counsel are encouraged to use separating sheets or a title page on each exhibit.

Examples of a correct description:

Journal Pages
Photograph
List of dates

Examples of incorrect description:

Pages from John Jones' journal (1)
4 x 6 photograph of victim's car (2)
List of dates of meetings between John
and Tony (3)

(1) If it cannot be verified that the journal is John Jones' that information should not be included in the description.

(2) The size of a photograph should not be listed. The photograph should not be described.

(3) Unless the document is labeled as "meeting dates between John and Tony" that information should not be included.

No bates stamp references or number of pages in documents should be used.

If counsel are submitting large charts, blow-ups or maps, please include a small version which can be marked as the exhibit. The blow-ups, charts and/or maps can be used as demonstrative but will not be marked as exhibits and will be returned to counsel.

All exhibits must be submitted with pages secured. Binder clips, rubber bands, and similar materials will not be accepted. Exhibits with a large number of pages may be bound, placed in a notebook (1 exhibit per notebook, please), or secured with an ACCO-type fastener.

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Please do not submit exhibits for trial in a notebook; they must be removed from the notebook to be marked. This does not include the exhibit being submitted in a notebook because it has more pages than could be secured by a staple.

For additional assistance in preparation of exhibits contact the courtroom clerk at 602-506-8946

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Sample of List of Exhibits to be provided to the courtroom clerk:

[illegible]

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CASE CAPTION:
TIME ESTIMATES

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant
