

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-007419

05/31/2011

HONORABLE JOHN A. BUTTRICK

CLERK OF THE COURT
J. Polanco/C. Castro
Deputy

KENT MCKENZIE, et al.

MARCUS D TAPPE

v.

RHONDA CROWNER, et al.

DAXTON R WATSON
RACHEL NIES
TROY B STRATMAN

TRIAL MINUTE ENTRY
DAY 1

Courtroom 704 – Central Court Building

Prior to commencement of trial, Plaintiffs' Exhibits 1-97 and Defendants' Exhibits 98-129 are marked for identification.

9:37 a.m. This is the time set for trial to Jury. Plaintiffs, Kent and Christine McKenzie, are present with Counsel Marcus Tappe and Rachel Nies. Defendants, Olga Griffin and Jerry Hyland of Sterling Fine Homes and Land, Inc., are present with Counsel Dax Watson and Troy Stratman.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The jury is not present.

Discussion is heard regarding preliminary matters.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-007419

05/31/2011

Pursuant to stipulation, all claims other than the consumer fraud claims are waived.

Argument is held on Plaintiff's Motion to Strike Jerry Diehl as a Trial Witness.

LET THE RECORD REFLECT the Motion to Strike Jerry Diehl as a Trial Witness filed by Plaintiffs is withdrawn with the understanding that the witness testimony during direct will be only to lay foundation that he authored an appraisal document, not as an expert witness.

Discussion is heard regarding exhibits to be included in juror notebooks.

IT IS ORDERED that counsel for both parties' must first stipulate to the admission of the exhibits and then provide them to the Court staff for entry into the juror notebooks.

10:20 a.m. Court reconvenes with respective counsel and parties present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Voir dire examination of prospective jurors proceeds at this time.

Jurors 3, 5, 10, 13, and 17 are excused and replaced with jurors 21-25.

Jurors 22 and 25 are excused and replaced with jurors 26 and 27.

Juror 27 is excused and replaced with juror 28.

Counsel pass the panel.

11:31 a.m. Court stands at recess.

12:05 p.m. Court reconvenes with respective counsel and parties present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Ten (10) persons are selected and sworn to act as trial jurors in this cause.

FILED: Jury List.

12:11 p.m. The jury is admonished and the Court stands at recess.

1:46 p.m. Court reconvenes with the parties and respective counsel present.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-007419

05/31/2011

The jury is present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The Preliminary Instructions are read to the jury by the Court.

FILED: Preliminary Instructions.

Opening statements are presented.

Plaintiffs' case:

Christine McKenzie is sworn and testifies.

Plaintiffs' Exhibit 2 is stipulated into evidence.

Plaintiffs' Exhibit 117, same as Defendants' Exhibit 117 for identification, is received in evidence.

Plaintiffs' Exhibit 7 is received in evidence.

Plaintiffs' Exhibit 38 is received in evidence.

3:10 p.m. The jury is excused from the courtroom. Court stands at recess.

3:29 p.m. Court reconvenes with the parties and respective counsel present.

The jury is present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Christine McKenzie continues to testify.

Plaintiffs' Exhibit 118, same as Defendants' Exhibit 118 for identification, is received in evidence.

Plaintiffs' Exhibit 35 is received in evidence.

Plaintiffs' Exhibit 36 is received in evidence.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-007419

05/31/2011

Plaintiffs' Exhibit 37 is received in evidence.

Plaintiffs' Exhibit 58 is received in evidence.

Plaintiffs' Exhibit 54 is received in evidence.

Plaintiffs' Exhibit 83 is received in evidence.

Plaintiffs' Exhibit 126, same as Defendants' Exhibit 126 for identification, is received in evidence.

Plaintiffs' Exhibit 127, same as Defendants' Exhibit 127 for identification, is received in evidence.

Plaintiffs' Exhibit 1 is received in evidence.

Plaintiffs' Exhibit 5 is received in evidence.

4:27 p.m. The jury is reminded of previous admonitions and excused for the evening recess; Court remains in session.

LET THE RECORD REFLECT the Court acknowledges that during direct examination of Christine McKenzie, some of the exhibits were displayed using the Court's ELMO, however the jurors' monitors were turned off and they were not able to view the documents that Mr. Tappe believed he was displaying. The Court having discussed this matter with counsel,

IT IS ORDERED allowing Mr. Tappe to have time set aside following cross examination of Christine McKenzie, to reintroduce those exhibits to the jury panel.

4:32 p.m. Court stands at recess until June 1, 2011 at 9:30 a.m.

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.