

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-015102

02/02/2015

HON. RANDALL H. WARNER

CLERK OF THE COURT  
K. Ballard  
Deputy

FORT MCDOWELL YAVAPAI NATION, et al.      LEO R BEUS

v.

STEPTOE & JOHNSON L L P, et al.

GARY L BIRNBAUM

JOHN DANIEL CAMPBELL

TRIAL RESET

**Courtroom: ECB - 512**

8:41 a.m. This is the time set for a status conference. Plaintiffs Fort McDowell Yavapai Nation, Fort McDowell Enterprises, LLC, and We-Ka-Jassa Investment Fund, LLC (collectively, "Plaintiffs") are represented (telephonically) by Counsel Linnette R. Flanigan (appearing in place of Leo R. Beus). Defendants Steptoe & Johnson, LLP, Nancy White and Ralph Guerin (collectively, the "Steptoe Defendants") are represented (telephonically) by Counsel Scot L. Claus (appearing in place of Gary L. Birnbaum). Defendants Lawrence E. Bloom, Larry D. Schnepf and Ringel Valuation Services, Inc. (collectively, the "Appraisal Defendants") are represented (telephonically) by Counsel Angela L. Potts (appearing in place of John Daniel Campbell).

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

Counsel advise the court that the proposed new trial and trial management conference dates are acceptable. Accordingly,

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**IT IS ORDERED** vacating the September 14, 2015 jury trial and resetting this matter for a **24-day** jury trial beginning on **January 11, 2016 at 9:30 a.m.** (concluding by 4:30 p.m. on Friday, February 19, 2016) in this division.

**The Honorable Randall H. Warner**  
**Maricopa County Superior Court**  
**East Court Building**  
**101 W. Jefferson**  
**5th Floor, Courtroom 512**  
**Phoenix, AZ 85003**  
**Phone: 602-372-2966**  
**Fax: 602-372-8746**

Trial hours are normally 9:30 a.m. to 4:30 p.m. (with a lunch recess from noon to 1:30 p.m. and two 15-minute recesses, daily). The trial days in this matter will be as follows.

- Monday, January 11 through Thursday, January 14, 2016
- Tuesday, January 19 through Friday, January 22, 2016
- Monday, January 25 through Thursday, January 28, 2016
- Monday, February 1 through Thursday, February 4, 2016
- Monday, February 8 through Thursday, February 11, 2016
- Tuesday, February 16 through Friday, February 19, 2016

**IT IS FURTHER ORDERED** vacating the July 24, 2015 trial management conference and resetting this matter for a final trial management conference on **December 11, 2015 at 10:00 a.m.** (time allotted: **two hours**) in this division. All counsel (and any self-represented party) shall **appear in person** unless otherwise ordered.

**NOTE:** All court proceedings are recorded by audio and video method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division (602-372-2966) three (3) court business days before the scheduled hearing.

8:43 a.m. Matter concludes.

Based on the foregoing, the court resets the following deadlines and makes the following orders. The dates set forth in this order are firm dates and will not be extended or modified by this court absent good cause. Lack of preparation will not ordinarily be considered good cause.

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**DUTIES BEFORE THE FINAL TRIAL MANAGEMENT CONFERENCE**

**MOTIONS IN LIMINE.** All motions in limine shall be filed no later than **5:00 p.m. on November 20, 2015**. Written responses to motions in limine may be filed no later than 10 calendar days after service of the motion. No replies shall be filed. The court may hear argument at the final trial management conference or may rule without oral argument. The parties must comply with Ariz. R. Civ. P. Rule 7.2(a) before filing any motion in limine.

**JOINT PRETRIAL STATEMENT.** The parties shall file with the court no later than **5:00 p.m. on December 4, 2015**, a **Joint Pretrial Statement**, signed by all counsel (and any self-represented party) and conforming in all respects to Ariz. R. Civ. P. 16(g), except as follows.

1. **List of Claims.** The Joint Pretrial Statement shall contain a list of all claims (i.e. claims, counterclaims, cross-claims, third-party claims, etc.) on which a verdict is sought. Such list shall specify (1) the cause of action (e.g. breach of contract, negligence, etc.), (2) the pleading and count in which such cause of action is pled, (3) each party asserting that cause of action, and (4) each party against whom relief is sought.

2. **Summary of the Case for Jury Selection.** The Joint Pretrial Statement shall include an agreed-upon brief (generally less than 200 words) summary of the case for jury selection purposes.

3. **Trial Exhibits.** As required by Rule 16(g), all trial exhibits shall be listed in the Joint Pretrial Statement along with objections. The court typically resolves objections to exhibits at trial, but objections must be listed in the Joint Pretrial Statement to be preserved.

4. **Deposition Designations.** As required by Rule 16(g), deposition designations and objections shall be included in the Joint Pretrial Statement. The court typically does not rule on objections to deposition designations at the Final Trial Management Conference. Rather, it resolves them at trial as follows. By 3:00 p.m. the day before a party plans to read deposition testimony, that party shall provide the court with a copy of the deposition transcript with the portions to be read highlighted. The court will rule on any objections by the next day.

5. **Final Trial Witnesses.** In addition, the Joint Pretrial Statement shall include an exhibit entitled Final Trial Witness List, which shall list each witness a party actually intends to call at trial, the day on which they intend to call that witness and the estimated time needed for direct, cross and re-direct examination.

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**JURY INSTRUCTIONS; VOIR DIRE.** The parties shall meet and agree on as many proposed jury instructions as possible. The parties shall file with the court, with their joint pretrial statement, copies of:

1. Proposed voir dire questions.
2. Agreed-upon preliminary and final jury instructions and proposed forms of verdicts.
3. Separate sets of requested instructions that have not been agreed upon. Recommended Arizona Jury Instructions (“RAJI”) may be referred to name without reprinting, but if the RAJI contains options for the court the party should indicate which options it is requesting.

Jury instructions not requested by the final trial management conference will be deemed waived unless good cause exists for the untimely request.

**SETTLEMENT.** The parties are reminded to promptly notify the court of any settlement pursuant to Ariz. R. Civ. P. 5.1(d). One day’s jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial.

**TRIAL MANAGEMENT CONFERENCE**

At the final trial management conference, the parties shall be prepared to discuss:

1. The claims and parties as to which a verdict is sought.
2. The time designated for trial and, if necessary, time limits.
3. Any scheduling or equipment issues.
4. Voir dire.
5. Any special issues regarding exhibits or deposition designations.
6. Preliminary jury instructions.
7. The case summary for jury selection purposes.
8. Motions in limine.

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9. The potential for settlement before trial.

**TRIAL EXHIBITS**

Counsel (and any self-represented party) **shall deliver all trial exhibits to the courtroom clerk (602-372-3180) no later than 4:30 p.m. on December 14, 2015.**

The parties shall present all exhibits to be used at trial, along with a written list of brief exhibit descriptions, to the clerk on the date referenced above unless other arrangements have been made with the clerk before that date. All exhibits will be clearly labeled by the parties to correspond with the list provided. The parties should not reserve exhibit numbers for exhibits to be provided at a later date, “all defendant’s exhibits,” “all plaintiff’s exhibits,” “miscellaneous demonstrative exhibits,” etc.

The exhibits will be marked numerically and serially, plaintiff’s first and defendant’s second. Before presenting the exhibits to the clerk, the parties shall meet and confer to **eliminate any duplicate exhibits.**

Do not place exhibits in a notebook when submitting them to the clerk for marking and do not provide the clerk with stacks of loose paper. Individual exhibits consisting of multiple pages shall be **bound by staples, binder clips, etc.**

Depositions are not marked as exhibits. But for any depositions the parties intend to use during the trial, the original deposition transcript shall be provided to the courtroom clerk for filing no later than the first day of trial. The depositions will be available to the parties and the court during the trial, and will be retained by the clerk for record purposes.

In addition to providing a set of exhibits to the clerk, the parties may provide a second set in a binder for the court’s use during the trial.