

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2000-012349

12/03/2003

JUDGE PENDLETON GAINES

CLERK OF THE COURT  
W. Bobrowski  
Deputy

FILED: 12/05/2003

ROBERT STOFFER, et al.

MICHAEL W WRIGHT

v.

DESERT MOUNTAIN PROPERTIES LIMITED     MARK A NADEAU  
PART, et al.

CASE MANAGEMENT ORDER  
And  
STATUS CONFERENCES SET

1.     Intent and purpose. The purpose of this order is to establish case management procedures for the “just, speedy and inexpensive” disposition of this case.

The Court notes the difference in approach between the plaintiffs, who wish to proceed in the usual fashion with the prosecution of their claims, and the defendants, who have suggested a “bellwether” discovery and trial approach, followed by mandatory mediation, subject to certain binding agreements by the parties. Plaintiffs are not willing to accept the conditions to the “bellwether” approach; and, absent agreement, the Court concludes that insufficient reason has been shown at this time to proceed in a piecemeal fashion. This determination is subject to review, as set forth below.

This order will govern proceedings in both consolidated cases (referred to separately as Stoffer and Beechner).

Aside from the number of plaintiffs (said to be between 99 and 120), there is nothing inherently difficult about the issues in this case. The Court intends that this case will be fully disclosed and discovered; all pretrial procedures concluded; a mandatory mediation and/or settlement conference conducted and concluded; and the case ready to be set for trial by October 31, 2004.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2000-012349

12/03/2003

2. Preliminary procedural matters. Based upon the Court's discussion with counsel at the case management conference on November 24, 2003, the Court directs that:

- A. If plaintiffs wish to file an amended complaint, the motion for leave to amend and the proposed, amended complaint must be filed not later than January 9, 2004. The amendment will be limited to the purposes identified by plaintiffs: to fulfill this Court's consolidation order and incorporate this Court's and Judge Harrison's rulings.
- B. If plaintiffs intend to file any motions for reconsideration addressing the Court's order of September 30, 2003, such motions must be filed not later than January 9, 2004.
- C. If there are any plaintiffs designated as "John Does" or by any other fictitious designation, those plaintiffs must be specifically identified not later than January 9, 2004.
- D. If plaintiffs believe, as stated in their portion of the joint case management memorandum, that there are any additional issues in this case remaining for disposition other than those set forth in the Court's order of September 30, 2003, plaintiffs shall file a specific statement of such claims not later than January 9, 2004.

3. Initial disclosures. If not previously made and exchanged, the parties shall mutually and simultaneously exchange their initial disclosure statements not later than January 23, 2004. If initial disclosures have previously been made, the parties shall supplement their initial disclosures by that date.

4. Commencement of discovery. Both parties may commence discovery immediately, and defendants may serve written questionnaires of the type described in their portion of the joint case management memorandum, which will be deemed in the nature of written interrogatories, upon all plaintiffs.

5. Waiver of presumptive limits on discovery. Because of the nature of the claims asserted in this case, and their age, the Court suspends presumptive limits on written discovery and third-party discovery. The Court does not intend this as a carte blanche authorization for excessive, oppressive or unnecessary discovery and will be available to entertain a joint telephone call from counsel in the event of any discovery dispute.

6. Expert witnesses and disclosure.

- A. The Court adopts the parties' designations of areas of expert testimony: (i) golf industry standards for access, dues and fees; (ii) accounting issues relating to dues and fees; and (iii) appraisal and valuation issues.
- B. Each party may designate one expert per issue.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2000-012349

12/03/2003

- C. Plaintiffs shall make their expert disclosures pursuant to Rule 26.1 not later than March 31, 2004; and defendants shall make their rebuttal and cross designations of expert opinions as required by Rule 26.1 not later than April 30, 2004.
- D. All expert discovery will be concluded not later than July 31, 2004.

7. Non-expert disclosure. Both parties will mutually and simultaneously exchange final disclosures regarding non-expert witnesses and exhibits to the full extent required by Rule 26.1 not later than April 30, 2004, and all discovery regarding non-expert witnesses and exhibits will be concluded not later than August 31, 2004.

8. Conclusion of discovery not otherwise provided. All discovery in this case not otherwise specifically provided for will be concluded not later than August 31, 2004.

9. Status conferences. The Court sets status conferences (1/2 hour each) on the following dates: February 12, 2004 at 9:30 a.m.; May 21, 2004 at 10:30 a.m.; and September 17, 2004 at 10:30 a.m. The purpose of the status conferences will be to review the parties' compliance with this order and to deal with any other matters counsel wish to address. Not later than 10 days before each conference, at the initiative of plaintiffs, the parties will meet and confer and file a joint report regarding compliance with the scheduling portions of this order and any other matters counsel wish to raise with the court (each side's position on contested issues to be succinctly stated).

10. Trial setting and trial management procedures. The Court declines to set a trial date at this time. The trial date will be set at the final status conference and/or a continued pretrial or pretrial management conference held for that purpose. The Court will require the parties to make maximum, effective use of technology and other creative techniques to shorten the time for trial allocated in this case. The Court specifically reserves the right, at the conclusion of discovery, to consider the trial of a certain number of the plaintiffs' individual claims as "bellwether" trials.

11. Dispositive motions. The Court declines to set a date or deadline at this time for filing of dispositive motions.

12. Discovery referee. The Court sees no need to appoint a discovery referee (special master) at this time, but may do so if future circumstances require.

13. Mediation and settlement plan. Not later than the first status conference set for February 12, 2004, the parties will file a joint, written report with a specific plan for the mediation and/or settlement of the parties' dispute, including a designation of an agreed-upon mediator, settlement judge or referee and the timing and sequencing of the initial and ensuing mediation or settlement sessions.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2000-012349

12/03/2003

14. Other, procedural orders.

- A. With respect to the parties' dispute regarding who should produce the plaintiffs' purchase and "member" files first, both parties have a mutual obligation to produce all records in their possession which are relevant either to the individual plaintiffs' claims or to defendants' defenses and/or which are reasonably calculated to lead to the discovery of admissible evidence. All such files and documents will be exchanged not later than January 23, 2004.
- B. The Court vacates the minute entry entered on October 1, 2003, in the Beechner case (CV2002-023890), placing that case on the inactive calendar for dismissal, as having been issued improvidently, that case having been previously consolidated into this case.
- C. The Court is available at any time for a joint telephone conference with counsel to discuss scheduling, discovery or other issues.

DATED: \_\_\_\_\_

/S/ JUDGE PENDLETON GAINES

\_\_\_\_\_  
PENDLETON GAINES  
JUDGE OF THE SUPERIOR COURT