

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-015010

06/28/2005

HONORABLE REBECCA A. ALBRECHT

CLERK OF THE COURT
K. Ballard
Deputy

FILED: 06/30/2005

SCOTTSDALE CITY

ROBERT BRUCE WASHBURN

v.

H H L PROPERTIES LIMITED PARTNERSHIP, JAY DUSHOFF
et al.

TRIAL SETTING

9:08 a.m. IN CHAMBERS. This is the time set for Pretrial Conference. Appearing telephonically are Robert Bruce Washburn, counsel for Plaintiff, and Tony Misseldine for Jay Dushoff, counsel for Defendants HHL Properties and Helen V. Lipsitz.

Court reporter is not present.

Discussion is held regarding the status of the case.

IT IS ORDERED as follows:

1. Defendants shall disclose their expert opinions and reports, essentially the appraisal reports, by **October 15, 2005**.
2. The parties shall disclose any rebuttal experts and/or opinions by **November 30, 2005**.
3. All discovery and all disclosures shall be completed by **January 10, 2006**. No discovery/disclosure done after that date, whether on stipulation or not, shall be used at trial unless the Court enters a written order permitting such discovery/disclosure.

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4. The parties shall participate in a settlement conference through outside resources to be completed by **December 15, 2005**.
5. Setting this matter for Trial to a Jury on **Monday, February 6, 2006 at 9:30 a.m.**, before Judge Rebecca A. Albrecht, 101 West Jefferson, 4th Floor, Courtroom 411, Phoenix, AZ 85003.

Estimated length of trial: **Five (5) days**.

THIS IS A FIRM TRIAL SETTING.

9:14 a.m. Matter concludes.

Based upon the foregoing,

IT IS FURTHER ORDERED as follows:

1. Setting a Pretrial Management Conference on **Tuesday, January 31, 2006 at 8:45 a.m.** in this division.
2. No less than ten (10) judicial days prior to trial, counsel (or the parties) shall file:
 - A. The joint pretrial statement shall be filed in accordance with Rule 16(d), Rules of Civil Procedure. In addition, to the information required by Rule 16, counsel are to identify in/with the joint pretrial statement all deposition or other transcribed testimony that may be offered at trial, other than for impeachment. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony, and the reasons for such objections, are also to be set forth. The joint pretrial shall include any objections to proposed exhibits. Any objections not so included are waived.
 - B. Requested jury instructions¹, and any voir dire questions.
 - C. Any trial memoranda (optional), which will be in lieu of post-trial briefs unless otherwise requested by the court at the conclusion of the trial.
 - D. Proposed findings of fact and conclusions of law (if a request for findings of fact and conclusions of law has been or will be filed).
 - E. Jointly completed time and witness estimate form (Attached).
3. Filing of motions in limine, consistent with Amended Rule 7.2 of the Arizona Rules of Civil Procedure:

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- (a) Within sufficient time to comply with subsection (b) of this rule, the parties shall confer to identify disputed evidentiary issues that are anticipated to be the subject of motions in limine.
 - (b) Unless a different schedule is ordered by the Court, no later than 30 days before either a final pretrial conference or, if no final pretrial conference is set, then the date of the trial, the parties shall file all motions in limine for which pretrial rulings are desired.
 - (c) The moving party shall not file a reply in support of its motion in limine.
 - (d) All motions in limine submitted in accordance with subsection (b) of this rule shall be ruled upon before trial unless the Court determines the particular issue of admissibility is better considered at trial.
 - (e) Motions in limine not filed in accordance with subsection (b) of this rule shall be deemed untimely and shall not be ruled upon prior to trial except for good cause shown.
 - (f) The failure to file a motion in limine in compliance with this rule shall not operate as a waiver of the right to object to evidence at trial
 - (g) A response to a motion in limine should be filed within 10 days of the filing of the motion.
 - (h) No leave of Court is necessary to file a motion in limine more than 30 days before either the date of trial or a final pretrial conference whichever is earlier. Parties are encouraged to do so, particularly if an early ruling on admissibility would advance settlement. (ARCP 7)
 - (i) Except by order of the Court, oral argument will not be held on motions in limine.
4. Motions for Summary Judgment shall be filed no later than **November 8, 2005** (90 days prior to trial). All other motions (except motions in limine) shall be filed no later than **December 8, 2005** (60 days prior to trial). This is in order so all motions can be scheduled, briefed, argued and decided prior to trial.
5. At least five (5) judicial days before the trial, the trial lawyers or their knowledgeable assistants shall make an appointment to meet with the clerk of this division, to present all exhibits and a list of exhibit descriptions. The exhibits shall be marked serially as they are listed in the pretrial statement – Plaintiff’s first, Defendant’s second. The parties shall advise the clerk, referring specifically to the pretrial statement, which exhibits may be marked directly in evidence. All exhibits will be clearly labeled by counsel to correspond with the list provided. Counsel are directed to meet in person to exchange the exhibits before coming to court for the appointment with the clerk. Counsel will make sure that they do not bring to the clerk a Plaintiff’s set of exhibits and a Defendant’s 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

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original depositions for filing at that time. For additional questions regarding exhibits, contact the clerk in this division at 602-506-8846.

6. Opinions of experts fairly sought and revealed in deposition or other discovery shall not be supplemented at trial.
7. The witness and exhibit lists shall contain no surprises; any information sought by other discovery devices and revealed for the first time on the witness or exhibit lists will be inadmissible at trial.
8. All documents and pleadings described above shall be delivered or telefaxed to opposing counsel on the date they are delivered to the court.

Parties Note: If a pleading is filed within 48 hours of a hearing it must be hand delivered to the division office to assure that it is available for the Court at the hearing. Delivery to an administrative mailbox will not assure its timely delivery.

* * *

**NOTE: This Court holds trial Monday through Thursday.
Generally, the daily hours are:**

9:30 a.m. to 12:00 p.m.

1:30 p.m. to 4:30 p.m.

¹

SUBMISSION OF PROPOSED JURY INSTRUCTIONS

If counsel request any of the Recommended Arizona Jury Instructions, the instruction does not have to be typed in its entirety. Rather, counsel should submit the instruction in the following manner:

[i.e.--in civil cases]:

RAJI Standard 1- Duty of Jurors

RAJI Standard 3- Arguments of Counsel

RAJI Negligence 1- Statement of Issues as to Liability

AS FOR NON-RAJI INSTRUCTIONS, these should be typed, each on a separate page with a heading [i.e.: Plaintiff's Instruction No.2 etc.], and provide authority for the instruction. Number each instruction consecutively, rather than leaving a blank space for someone else (such as the court) to number. The non-RAJI instructions should also be submitted on a disk in Word 97/Windows format.

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If there are any questions, feel free to call.

PLEASE NOTE: **E-Courtroom Policies**

Courtroom 411 is one of the new “e-courtrooms” and provides state of the art equipment for case presentation. Please note the following provisions:

1. The e-courtroom uses electronic recording to preserve the record. If you wish to have a court reporter present for the duration of your trial, you **must** notify the court at least 72 hours prior to the beginning of trial.
2. If you do not wish to use the services of a court reporter, but would like a recording of your presentation, please provide the court with a new CD or an **unopened** VHS video tape. A high quality video tape must be used for this system in order to ensure the most reliable record.
3. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.** Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.
4. If you would like some pre-trial instruction on using any of the equipment in this courtroom, please contact the division at (602) 506-3727.

All equipment will be ready for use upon arrival of the parties. If for some reason it is not, please contact court staff for assistance. **Do not attempt to set up the court equipment by yourself!** In addition, please do not unplug, move, or in any way alter any of the equipment, microphones, cameras, etc. in the courtroom.

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	

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Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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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
