

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-003667

08/23/2005

HONORABLE PETER SWANN

CLERK OF THE COURT
D. Kenney
Deputy

FILED: 08/25/2005

ARIZONA PUBLIC SERVICE COMPANY

MARTIN A ARONSON

v.

MARGARET I LARUE, et al.

JOSEPH E LARUE

JOHN W PAULSEN
WILLIAM D CLEAVELAND
ALTERNATIVE DISPUTE
RESOLUTION - CCC

MINUTE ENTRY

8:43 a.m. This is the time set for Status Conference re: Defendant Larue's Motion to Dismiss. Plaintiff is represented by counsel, Martin Aronson and William Cleaveland. Defendant Larue is represented by counsel, Joseph Larue.

Court reporter, Rochelle Dobbins, is present.

Discussion is held.

IT IS ORDERED setting Oral Argument re: Defendant Larue's Motion to Dismiss on **August 23, 2005 at 10:15 a.m.**, in this Division.

8:49 a.m. Court stands at recess.

10:02 a.m. Court reconvenes with respective counsel present.

Court reporter, Rochelle Dobbins, is present.

Oral argument is heard.

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The Court has heard oral argument and understands the importance of final appraisals in the decision on the merits, but finds nothing in the pleadings that evidences the inability of Plaintiff to proceed with their condemnation claim at this time.

Accordingly,

IT IS ORDERED denying Defendant Larue's Motion to Dismiss.

IT IS FURTHER ORDERED adopting Defendant Larue's position and requiring Plaintiff to disclose to Defendants, their expert appraiser and their written appraisal reports by **September 26, 2005**. In addition, Defendant Larue shall disclose to Plaintiff, her expert appraiser and written appraisal reports by **November 25, 2005**.

IT IS FURTHER ORDERED referring this matter to the Court's Alternative Dispute Resolution Office for the appointment of a Judge *Pro Tempore* to conduct a settlement conference. Counsel and/or the parties are instructed that ADR will not set the settlement conference and therefore they should not contact the office of ADR. Counsel and/or the parties will be notified by ADR by minute entry upon the appointment of a Judge *Pro Tempore* and at that time should contact the appointed Judge *Pro Tempore* to arrange the time and location for the settlement conference. The Judge *Pro Tempore* is requested to conduct a settlement conference on or before **December 30, 2005**.

All counsel and their clients, or non-lawyer representatives who have full and complete authority to settle this case, shall personally appear and participate in good faith in this settlement conference even if no settlement is expected.

IT IS FURTHER ORDERED setting a Bench Trial in this matter on **January 13, 2006, at 9:00 a.m. (1 days)**, in this Division.

**HONORABLE PETER B. SWANN
MARICOPA COUNTY SUPERIOR COURT
OLD COURT HOUSE
125 W. WASHINGTON
2nd FLOOR, COURTROOM 202
PHOENIX, AZ 85003
602-506-7959 TEL
602-372-8545 FAX**

THIS IS A FIRM TRIAL SETTING.

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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.

MOTIONS IN LIMINE

Motions *in limine* shall be filed only in accordance with Rule 7.2, Ariz. R. Civ. P. Motions *in limine* shall be filed thirty (30) days before the PTMC and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972). A written response to a motion *in limine* may be filed no later than ten (10) days thereafter. The Court will rule on the motions *in limine* without oral argument. If the Court wishes to hear argument, the argument will be heard at the PTMC. No replies shall be filed.

Unless prior leave of the Court is obtained for good cause shown, no party may file more than five (5) motions *in limine*, including all subparts.

MARKING EXHIBITS

At least seven (7) judicial days before the Bench Trial, 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 and, if possible, downloaded onto a disk which should be given to the clerk. 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.

10:21 a.m. Hearing concludes.

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

PLAINITIFF'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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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 in a format (email or 3 ½” disk) that the clerk can access to transfer information to the court’s exhibit information system. The list should include a description of each exhibit. (See blank sample of an exhibit table below as a reference.) Do not put numbers on the exhibits.

Exhibit Description Information:

The descriptions should be verifiable when viewing the exhibit. Counsel are encouraged to use a title page on each exhibit. A title page is beneficial because it specifically identifies the materials for the court and counsel. **Do not** put an exhibit number on the title page – just the description of the exhibit, *i.e.* “Letters to Jones from Smith”.

Examples of a correct description:

Journal Pages¹
Photograph²
List of dates³

Examples of incorrect description

Pages from John Jones’ journal¹
4 x 6 photograph of victim’s car²
List of dates of meetings between John and Tony³

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 and can go into the jury if in evidence. 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.

Please do not submit exhibits in notebooks.

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

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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
