

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-010943

04/26/2016

HONORABLE JO LYNN GENTRY

CLERK OF THE COURT
B. Randhawa
Deputy

MARTHA BERRY

MARIA I GONZALEZ

v.

FREDERICK DONALD MOEBS

BRETT T DONALDSON

TRIAL MINUTE ENTRY
DAY 2

East Court Building – Courtroom 414

Prior to the commencement of today's proceedings, Defendant's exhibit 23 is marked for identification.

9:31 a.m. Trial to a Jury continues from April 25, 2016. Plaintiff, Martha Berry, is present and represented by counsel, Maria I. Gonzalez. Defendant, Frederick Donald Moebs, is present and represented by counsel, Brett T. Donaldson. The jury is present.

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

FILED: Deposition of Martha Berry dated January 20, 2015.

Martha Berry, having previously been sworn, resumes the stand and testifies further.

Defendant's exhibit 23 is received in evidence.

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10:28 a.m. The Court stands at recess.

10:41 a.m. Court reconvenes with respective parties and counsel present. The jury is present.

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Plaintiff's exhibit 24 is marked for identification.

Upon stipulation of the parties, Defendant's exhibit 19 is received in evidence.

Martha Berry resumes the stand and testifies further.

Plaintiff's exhibit 24 is received in evidence.

The Court receives a written question from the jury. Court and counsel discuss the question, on the record, out of the hearing of the jury. The relevant question is asked and answered by the witness.

FILED: Juror Question #1.

The witness is excused.

Patrick Yurek is sworn and testifies.

Plaintiff's exhibit 10 is received in evidence.

The witness is excused, subject to recall.

12:01 p.m. The jury leaves the Courtroom. The Court remains in session.

Trial matters are discussed.

12:03 pm. The Court stands at recess.

1:26 p.m. Court reconvenes with respective parties and counsel present. The jury is not present.

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Modifications to final jury instructions and verdict forms are discussed.

1:28 p.m. The Court stands at recess.

1:48 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

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

Defendant's exhibit 25 is marked for identification.

Patrick Yurek resumes the stand and testifies further.

The Court receives a written question from the jury. Court and counsel discuss the question, on the record, out of the hearing of the jury. The relevant question is asked and answered by the witness.

FILED: Juror Question #2.

The witness is excused.

Plaintiff rests.

Defendant's case:

Frederick Donald Moebs is sworn and testifies.

Defendant's exhibit 25 is received in evidence.

2:56 p.m. Court stands at recess.

3:10 p.m. Court reconvenes with respective parties and counsel present. The jury is not present.

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

Modifications to final jury instructions and verdict forms are discussed and made.

3:32 p.m. The jury is present.

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Frederick Donald Moebs resumes the stand and testifies further.

Defendant rests.

Instructions are settled and verdicts are prepared.

Closing arguments.

Jury is instructed by the Court as to the law applicable to this cause.

FILED: Final Jury Instructions.

4:42 p.m. Jury retires in charge of the sworn bailiffs to consider their verdicts.

5:10 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.

5:11 p.m. The jury is present in the jury box and by their foreperson returns into court their verdicts. The Court noting that one of the verdict forms has not been properly completed, the jury again retires to consider the outstanding verdict.

5:12 p.m. Court stands at recess while jury continues deliberations.

5:20 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.

The Court has received a question/note from the jury. The Court notes Plaintiff's objection to same. The question/note is discussed and a written response is submitted to the jury.

FILED: Juror Question/Note #3.

5:23 p.m. Court stands at recess.

5:34 p.m. Court reconvenes with respective counsel and parties present.

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The Court has received questions from the jury. Same are discussed discussed and written responses are submitted to the jury.

FILED: Juror Questions #4 and #5.

5:40 p.m. Court stands at recess.

5:44 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.

5:44 p.m. The jury is all present in the jury box and by their foreperson returns into court their verdicts, which are read and recorded by the Clerk and is as follows:

“On Plaintiff, Martha Berry’s claim for punitive damages, we, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Defendant, Frederick Donald Moebs.”

“For the property damages claim involving diminution of value, we the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff, Martha Berry, and find the difference between the fair market value of Plaintiff, Martha Berry’s car immediately before the accident, and its fair market value immediately thereafter to be \$0.00.”

“For Defendant, Frederick Donald Moebs’ claim re: mitigated damages, we, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Defendant, Frederick Donald Moebs and find the amount of damages that would have been mitigated to be \$2,587.00.”

The jurors reply that this is these are their true verdicts.

The jury is polled at the request of counsel for the Plaintiff. Each juror replies that this is his/her true verdict.

The jury is thanked by the Court and excused from further consideration of this cause.

IT IS ORDERED assessing jury fees in the total amount of \$452.32 against Plaintiff, Martha Berry, all in accordance with the formal written Judgment for Jury Fees signed by the Court on April 26, 2016 and filed (entered) by the Clerk on April 26, 2016.

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Pursuant to the verdicts entered and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee. Counsel/party shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all refilled exhibits.

IT IS FURTHER ORDERED that counsel/party, or written designed, take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form (2)

FILED: Jury List; Trial Worksheet; Verdicts (3)

5:50 p.m. Trial concludes.