

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 1998-012833

11/18/2003

HON. JONATHAN H. SCHWARTZ

CLERK OF THE COURT
D. Glab
Deputy

FILED: 11/21/2003

RICHARD T AIELLO, et al.

DANIEL J RADACOSKY

v.

BASHAS INC, et al.

THEODORE TODD JULIAN JR.

TRIAL MANAGEMENT CONFERENCE AND MOTION TO WITHDRAW

9:28 a.m. This is the time set for Trial Management Conference and oral argument on Motion of Daniel J. Radacosky to Withdraw. Plaintiff is present with counsel, Daniel J. Radacosky. Defendant is represented by counsel, Theodore Todd Julian.

A record of the proceeding is made by CD/videotape in lieu of a court reporter.

A discussion is held.

IT IS ORDERED denying the Motion of Daniel J. Radacosky to Withdraw as counsel for Plaintiff and Motion to Continue Trial for the reasons set forth on the record.

Defendant's Motion in Limine re: Claims Barred by Statute of Limitations is argued.

IT IS ORDERED granting the Defendant's Motion in Limine re: Claims Barred by the Statute of Limitations. Reasons set forth on the record.

Defendant's Motion in Limine re: Other Claims and Settlement with Neighbors is argued.

IT IS ORDERED granting Defendant's Motion in Limine re: Other Claims and Settlement with Neighbors. Reasons are set forth on the record.

Defendant's Motion in Limine re: Alleged Zoning Violations is argued.

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10:47 a.m. Court stands at recess.

10:55 a.m. Court reconvenes with Plaintiff and respective counsel present.

A record of the proceeding is made by CD/videotape in lieu of a court reporter.

IT IS ORDERED granting in part and denying in part Defendant's Motion in Limine re: Alleged Zoning Violations. The Court permits the letter from Basha's Project Manager, Marianne Owan to Robert Glen and permits any Phoenix Police Department reports concerning deliveries at Basha's during prohibited hours after 7-16-96.

The Court's December 3, 1999 minute entry at page three, paragraph one is by stipulation amended to state that the prohibited hours for deliveries and unloading trucks are between 11 p.m. and 6 a.m., not 7 a.m.

IT IS ORDERED granting in part and denying in part Defendant's Motion in Limine re: Property Value. Plaintiff will not be offering a specific dollar amount as diminution of his home value, but may be permitted to testify in his opinion that prospective buyers would be less interested in his house due to the alleged nuisance.

IT IS ORDERED denying Walmarks Motion in Limine re: Financial Damages in which Bashas joined. Bashas withdraws it's joinder in Walmarks' Motion in Limine re: Installation of Gates and City of Phoenix being "duped".

IT IS FURTHER ORDERED that the Joint Pretrial Statement will be filed not later than December 3, 2003.

IT IS FURTHER ORDERED setting Status Conference on December 8, 2003 at 4:00 p.m. in this division. Allotted time: 30 minutes.

11:22 a.m. Hearing concludes.