

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2000-005994

12/01/2003

HONORABLE JANET E. BARTON

CLERK OF THE COURT
A. Reinhart
Deputy

FILED: 12/08/2003

CITY OF SCOTTSDALE

JAMES T BRASELTON

v.

EUGENE CHANDLER, et al.

STEVEN A HIRSCH

JAMES R MINTER

MINUTE ENTRY

9:15 a.m. This is the time set for a Final Pretrial Management Conference. Counsel James T. Braselton is present on behalf of Plaintiff. Counsel Steven Hirsch is present on behalf of Defendant Eugene Chandler.

A court reporter is not present.

The Court informs counsel that it has had an opportunity to review the parties' Joint Pretrial Statement.

Discussion is held regarding a trial conflict with Defendant's appraiser, Peter Martori, who will be testifying in another trial before Judge Gaines.

The Court will contact Judge Gaines in attempt to coordinate the testimony accordingly.

LET THE RECORD REFLECT that the Judicial Assistant in this division will contact counsel to inform them of the manner that this case will proceed after the Court confers with Judge Gaines.

The length of the trial is discussed. In that regard, the Court is advised that the trial will take **3 days**.

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The jury shall consist of **eight (8)** jurors and **one (1)** alternate for a total of **nine (9)** jurors. Counsel stipulate that all **nine (9)** jurors will be permitted to deliberate in this case and that an agreement of **seven (7)** of the **nine (9)** jurors will be necessary to return a verdict. Should **two (2)** jurors be unable to deliberate, counsel stipulate to an agreement of **five (5)** of the **seven (7)** jurors will be necessary to return a verdict.

Counsel are advised that the Court's trial hours are as follows:

Monday through Thursday, 9:30 a.m. to 4:30 p.m. with a lunch recess from noon to 1:30 p.m. daily, and two 15-minute breaks: one in the morning and one in the afternoon.

1. Movement of Counsel

Counsel are directed to restrict their movements to the podium and the area immediately surrounding the podium. Counsel need not request permission to approach the bench, witness stand, and the clerk for retrieval of exhibits. Counsel are further advised to be mindful of the jury's space.

2. Exhibits

Counsel shall meet and confer regarding authenticity, foundation and admission of exhibits to expedite the process during trial.

Counsel are advised that exhibits should be received into evidence prior to asking witnesses to testify regarding the substance of the exhibit. Exhibits shall be submitted to the clerk by no later than **5:00 p.m. on December 10, 2003.**

3. Objections

Counsel shall not make speaking objections; counsel shall only state the legal basis for the objections.

4. Bench Conference

Bench conferences should be avoided and if necessary will be held at the side of the bench outside of the jury's hearing.

5. Offers of Proof

Any offers of proof shall be done outside the presence of the jury.

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6. **Jury Selection**

The Court advises counsel it uses the "struck" method for jury selection. The Court will initially have 30 to 35 jurors present for jury selection.

After the Court's voir dire, counsel will have an opportunity to ask follow-up questions (allotted time: 15 minutes per side). Counsel shall file with the Court any requested voir dire by no later than **5:00 p.m. on December 10, 2003.**

The Court will read a joint statement of the case to the prospective jurors at the beginning of jury selection.

IT IS ORDERED that counsel shall file with the Court the parties' Joint Statement by no later than **5:00 p.m. on December 10, 2003.**

7. **Jury Instructions**

Counsel shall submit final jury instructions to the Court as soon as possible. They shall be presented in hardcopy form as well as on a diskette in Word format.

8. **Juror Notebooks**

The Court advises counsel that the Court provides the jurors with juror notebooks which contain the jury instructions, court contact information, and paper for note-taking.

9. **Expert Testimony**

Counsel shall provide to the Court, on the first day of trial, hardcopies of all Rule 26.1 disclosures as to each expert witness which counsel intend to call. The statements shall include the opinions of the expert witnesses as well as the bases for the opinions.

Counsel are advised that if either side intends to make any claim that proposed expert testimony of either side is cumulative, a motion in limine in that regard should be made before trial.

LET THE RECORD REFLECT that Defendant does invoke the Rule of Exclusion of Witnesses.

Counsel requests that the jurors be allowed to have calculators in the jury room.

IT IS ORDERED granting counsel's request to provide the jurors with calculators.

9:40 a.m. Matter concludes.