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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KEN DOSHIER, et al., Plaintiffs, v. APACHE WELLS HOMEOWNERS ASSOCIATION, INC., an Arizona nonprofit corporation, et al., Defendants.	No. CV2007-005085 **JOINT PRETRIAL MEMORANDUM**

I. SCHEDULE FOR COMPLETION OF DISCOVERY.

The parties agree that any individual identified pursuant to Rule 26.1 of the Arizona Rules of Civil Procedure is subject to being deposed by either party. The parties propose that discovery be completed by June 1, 2008.

II. DATES OF DISCLOSURE OF EXPERT WITNESSES.

The parties do not anticipate the use of expert witnesses at trial. However, the parties propose that the disclosure of any expert witnesses and their opinions in this case be made no later than January 1, 2008 and February 1, 2008 for rebuttal witnesses.

III. NUMBER OF EXPERT WITNESSES.

The parties agree that each side will be permitted to have one expert witness per issue. Notwithstanding, the parties do not presently anticipate the need to retain an expert witness in this matter.

IV. DATES OF DISCLOSURE OF NON-EXPERT WITNESSES.

The parties propose that the disclosure of all non-expert witnesses be made no later than April 1, 2008.

V. DISCOVERY DISPUTES.

There are no discovery disputes presently pending between the parties or before the Court.

VI. ELIMINATION OF NON-MERITORIOUS CLAIMS OR DEFENSES.

The parties have not addressed the elimination of non-meritorious claims or defenses.

VII. AMENDMENT OF PLEADINGS.

Plaintiffs anticipate amending their Complaint to assert claims relating to a transfer fee currently charged by the Association to new members. Plaintiffs believe the amendment is necessary after the Honorable Margaret Downie issued a ruling in case number LC2007-000189 suggesting that the proper forum to address the transfer fee issue is not the Office of Administrative Hearings, but instead is the Maricopa County Superior Court. The parties propose that all amendments to pleadings be completed by February 1, 2008.

VIII. ISSUES OF FACT STILL AT ISSUE.

Plaintiffs' claims for injunctive relief and declaratory judgment are no longer at issue, as the Court has granted Plaintiffs' Motion for Partial Summary Judgment on those issues. All factual issues are still at issue however, as Plaintiffs' claims for breach of fiduciary duty concern all facts relating to the special assessment, elections, transfer fee, and general conduct of the Association's Board of Directors.

IX. STIPULATIONS AS TO FOUNDATION OR ADMISSIBILITY OF EVIDENCE.

The parties anticipate stipulating as to foundation and admissibility of most of the evidence herein. To date, however, the parties have not reached any agreements regarding the evidence to be utilized at trial.

X. SPECIAL PROCEDURES FOR CASE MANAGEMENT.

The parties do not currently suggest any special procedures for case management.

XI. ALTERNATIVE DISPUTE RESOLUTION.

Plaintiffs believe a private mediation by July 1, 2008 would be beneficial.

XII. RULE ON TIME LIMITS.

The parties request that the Court set appropriate deadlines consistent with other deadlines offered herein and consistent with the Court's trial calendar.

XIII. COMPLIANCE WITH RULE 26.1.

The parties to date have complied with their obligations pursuant to Rule 26.1 of the Arizona Rules of Civil Procedure.

XIV. COMPLIANCE DATE FOR RULE 16(d) OF THE ARIZONA RULES OF CIVIL PROCEDURE.

The parties propose that a Joint Pretrial Statement shall be due fourteen (14) days prior to the date set for trial.

XV. PROPOSED TRIAL DATE.

The parties propose a trial date on or after August 1, 2008.

XVI. TRIAL PROCEDURES.

The parties currently do not believe that it will be necessary to impose time limits on any portion of the trial.

XVII. OTHER MATTERS.

There are no other matters presently requiring the Court's attention.

DATED this 14th day of November, 2007.

CHEIFETZ IANNITELLI MARCOLINI, P.C.

By _____
Steven W. Cheifetz
Melanie C. McKeddie
Attorneys for Plaintiffs

JONES, SKELTON & HOCHULI, P.L.C.

By Melanie McKeddie for
J. Gary Linder
Attorney for Defendants

ORIGINAL of the foregoing hand-delivered this 14 day of November, 2007 to:

The Honorable Bethany Hicks
MARICOPA COUNTY SUPERIOR COURT
101 West Jefferson, ECB-811
Phoenix, Arizona 85003

By

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