

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

RECEIVED VIA EMAIL

CV 2007-005085

08/20/2007

AUG 23 2007

CLERK OF THE COURT

HONORABLE BETHANY G. HICKS

CHEIFETZ IANNITELLI
MARCOLINI, P.C.

D. Whitford
Deputy

KEN DOSHIER, et al.

STEVEN W CHEIFETZ

v.

APACHE WELLS HOMEOWNERS
ASSOCIATION INC, et al.

J GARY LINDER

ALTERNATIVE DISPUTE
RESOLUTION - CCC

**EVIDENTIARY HEARING/RULINGS
MEDIATION ORDERED
COMPREHENSIVE PRETRIAL CONFERENCE SET**

2:32 p.m. This is the time set for an Evidentiary Hearing re: Preliminary Injunction. Plaintiffs are represented by counsel Steven Cheifetz. Defendants are represented by counsel J. Gary Linder.

Court reporter, Michael Babicky, is present.

The Court advises counsel of her rulings, and same are discussed.

These matters having been under advisement,

IT IS ORDERED granting Plaintiffs' Motion for Partial Summary Judgment.

IT IS FURTHER ORDERED denying Defendant's Cross-Motion for Summary Judgment.

Docket Code 019

Form V000A

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Calendared By JE Date 8-23-07

Cal for SWC, SFC, MCM, JKC 2330.3
9-4-07 submit form of order (mt for partial st)
10-22-07 pretrial conf
10-15-07 joint pretrial memo

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IT IS FURTHER ORDERED that the injunction will take effect because there is no proper authorization.

IT IS FURTHER ORDERED referring this case to the court's Alternative Dispute Resolution for the appointment of a judge *pro tempore* to conduct a settlement conference re: the issues of damages and attorneys' fees. **Counsel and/or the parties will receive a minute entry from ADR appointing the judge *pro tempore*.** Counsel and any "pro per" parties will contact the appointed judge *pro tempore* to arrange the date, time and location for the settlement conference. The Office of Alternative Dispute Resolution will not do the scheduling of the settlement conference so please do not contact that office.

✓ **IT IS FURTHER ORDERED** setting a Comprehensive Pre-Trial Conference for **October 22, 2007 at 2:00 p.m.** in this division.

Judge BETHANY G. HICKS
Maricopa County Superior Court
East Court Building
101 W. Jefferson, Courtroom 811
Phoenix, Arizona 85003
(602) 506-2139

IT IS FURTHER ORDERED that the parties shall submit a Joint Pretrial Memorandum as set forth below.

The Court will review the Joint Pretrial Memorandum and proposed discovery and disclosure order, required below. If the dates are mutually agreeable to all parties, then the parties may incorporate the order by reference. The Court may set a trial date and a trial management conference date at that time. The Court may also adopt the discovery and disclosure schedule order and set a scheduling conference after the completion of disclosures or the Court may place the matter back on the Inactive Calendar for a period of time for counsel to complete the requirements under Rule 38.1¹. If counsel feel a pretrial conference is still necessary at this stage of the litigation, they should address the reasons for the need for a pretrial conference in the first paragraph of the Joint Pretrial Memorandum.

If the parties fail to file a timely memorandum, sanctions may issue pursuant to Rule 16(f).

¹ The Court will strictly enforce Rule 38.1(a)(3)(I) and Local Rule 3.4.
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IT IS FURTHER ORDERED:

All counsel are directed to meet personally to discuss all of the matters set forth in Rule 16(b). Counsel shall prepare and file with the Court, 5 days prior to the Pre-Trial Conference, a **Joint Pretrial Memorandum**, and prepare a **proposed order for Discovery and Disclosure deadlines**. The proposed order shall include dates for the following items.

1. **An agreed-upon schedule for completion of non-expert depositions.** As far as can reasonably be anticipated, each party shall set forth the depositions they anticipate taking and the approximate time required for each; any and all medical examinations which may be required of any of the parties; the person or persons to conduct such examinations; all requests for production; and all tangible evidence to be disclosed or exchanged.
2. **A date for the final disclosure of expert witnesses,** and/or to supplement disclosures made to date.
3. **A date or dates for the final disclosure of all non-expert witnesses,** and/or to supplement disclosures made to date.
4. A date by which all written discovery will be propounded and concluded. Further, counsel shall set forth any written discovery outstanding and a date when it will be complete.
5. The position of each counsel on whether the Rule 38.1 time limits should be waived.
6. A proposed date for a Mandatory Settlement Conference pursuant to Rule 16.1 A.R.C.P.
7. An agreed-upon date for compliance with Rule 16(d). The parties shall attach a copy of the Rule 16(g) form so the Court can issue the appropriate order for Alternate Dispute Resolution.
8. Set forth any discovery disputes to date or Rule 26.1 compliance issues.
9. A date for completion of all discovery, including expert discovery.
10. A date by which all dispositive or partially-dispositive motions shall be filed.

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9. A proposed trial date agreed upon by all counsel and anticipated length of trial.

If the parties agree as to the dates, they need only prepare the proposed order and incorporate it by reference. If counsel are unable to agree on any of the items of the Pretrial Statement, the reasons for their inability to agree shall be set forth in the Pretrial Statement and each shall prepare a separate proposed order.

IT IS FURTHER ORDERED that should any discovery disputes arise, 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.

IT IS FURTHER ORDERED that counsel shall notify the Court of any agreed-upon extension of any time period provided by the Rules of Civil Procedure. The purpose of this order is not to discourage extensions as a matter of professionalism, but to ensure that no party suffers summary disposition of any issue by virtue of an extension of which the Court is not aware.

2:38 p.m. Hearing concludes.