

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003800

05/06/2014

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT
C. Keller
Deputy

CHARLES RODRICK, et al.

CHARLES RODRICK
34522 N SCOTTSDALE RD, #120-467
SCOTTSDALE AZ 85266

v.

DAVID MICHAEL ELLIS, et al.

RICK POSTER

SHANE D BUNTROCK
RANDAL HUTSON
ERIC A MARK
BRENT OESTERBLAD
23263 N SCOTTSDALE RD
#D3-218
SCOTTSDALE AZ 85255
JOE M ROMLEY

**TRIAL MINUTE ENTRY
DAY TWO**

East Court Building – Courtroom 513

8:37 a.m. Trial to a jury continues from May 5, 2014. Plaintiff/Counterdefendant Charles Rodrick is present on his own behalf. Plaintiff/Counterdefendant Traci Heisig is present and represented by counsel, Eric A. Mark. Defendant/Counterclaimant David M. Ellis is present and represented by counsel, Rick Poster. Defendant/Counterclaimant Lois A. Flynn is present and represented by counsel, Joe M. Romley. Defendants/Counterclaimants Adam Galvez and Susan Galvez are represented by counsel, Randal Hutson. Third-Party Defendant Brent Oesterblad is present on his own behalf.

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

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003800

05/06/2014

The jury is not present.

Argument is heard and considered regarding the contested issues as outlined in the parties' Joint Pretrial Statement.

For the reasons set forth on the record,

IT IS ORDERED as follows:

- All claims asserted by (Plaintiff/Counterdefendant) Mr. Rodrick including: Defamation, Trade Libel, False Light, Tortious Interference, Aiding and Abetting, Conspiracy, and Emotional Distress, both negligent and intentional, are dismissed, as well as any other claim that he is asserting.
- With regard to (Defendant/Counterclaimant) Mr. Ellis: the claims for Malicious Prosecution, Abuse of Process, and Conspiracy are dismissed. Mr. Ellis may proceed on his claim for Defamation.
- With regard to (Defendant/Counterclaimant) Ms. Flynn: claims for Defamation, False Light, Invasion of Privacy, Conversion, and Abuse of Process remain in the case. Ms. Flynn's claims for Unjust Enrichment, Assault, and Intentional Infliction of Emotional Distress are dismissed.
- With regard to the claims by (Defendant/Counterclaimant) Susan Galvez: Theft by Extortion, Racketeering, Intentional Infliction of Emotional Distress, Aiding and Abetting, and Conspiracy are dismissed. Ms. Galvez' claims of Invasion of Privacy, Defamation, and Abuse of Process against Mr. Rodrick remain in the case.
- With regard to the claims by (Defendant/Counterclaimant) Mr. Galvez: Theft by Extortion, Intentional Infliction of Emotional Distress, Aiding and Abetting, and Abuse of Process are dismissed. Mr. Galvez' claims for Racketeering, Invasion of Privacy, and Defamation against Mr. Rodrick remain in the case.
- Claims against him in this matter having been settled or otherwise resolved in a way that does not require a trial as part of this matter, Mr. Oesterblad's participation as a Third-Party Defendant has come to an end.

Discussion is held regarding the manner in which the Court will address the jury regarding the position of the parties as a result of the dismissal of Plaintiff/Counterdefendant's claims.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003800

05/06/2014

IT IS FURTHER ORDERED in view of the fact that Mr. Rodrick and Ms. Heisig no longer have claims being pursued on their behalf's, Mr. Ellis, Ms. Flynn, Mr. Galvez, and Ms. Galvez are Plaintiffs. Mr. Rodrick and Ms. Heisig are Defendants.

The Court will advise the jury that the Court has determined that Plaintiff/Counterdefendant Charles Rodrick's claims will not proceed as part of this trial and Plaintiff/Counterdefendant Charles Rodrick remains in this case as a Defendant.

LET THE RECORD REFLECT that while the Court has realigned the parties for trial purposes, the caption of the case cannot be changed. Therefore, the Court's minute entry will continue to refer to the parties as Defendants/Counterclaimants and Plaintiffs/Counterdefendants with the exception of the forms of verdict.

LET THE RECORD FURTHER REFLECT that with respect to the exhibits and exhibit worksheet only, Plaintiff/Counterdefendant Charles Rodrick will continue to be designated as Plaintiff. Defendants/Counterclaimants will continue to be designated as Defendants. Plaintiff/Counterdefendant Traci Heisig, whose claims were previously dismissed by Judge Cooper before trial commenced, will be designated as a Defendant.

Discussion is held regarding the trial schedule and witnesses. Good cause appearing,

IT IS ORDERED the parties may take a witness out of order during the course of trial, if necessary.

Discussion is held regarding objections as to a certain expert witness. The Court will arrange time for the parties to argue their positions regarding the expert witness' testimony.

Discussion is held regarding opening statements.

LET THE RECORD REFLECT that Adam Galvez and Susan Galvez are now present in the courtroom.

For the reasons set forth on the record,

IT IS ORDERED counsel may read Judge Cooper's rulings to the jury directly from minute entries that are or will be marked as evidence for this trial.

9:25 a.m. Court stands at recess.

9:49 a.m. Court reconvenes with the parties and respective counsel present.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003800

05/06/2014

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

The jury is present and trial begins.

The Court instructs the jury on the issues that have been resolved.

Opening statements.

10:59 a.m. The jury is reminded of previous admonitions and leaves the courtroom.
Court stands at recess.

11:17 a.m. Court reconvenes with the parties and respective counsel present.

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

The jury is present.

The Court explains to the jury the rule of exclusion of witnesses, including Brent Oesterblad who is no longer a party to this case, but will testify as a witness during trial.

Opening statements continue.

11:52 a.m. The jury is reminded of previous admonitions and leaves the courtroom.

Court remains in session.

Discussion is held regarding the parties' allotted trial time.

11:53 a.m. Court stands at recess.

1:29 p.m. Court reconvenes with the parties and respective counsel present.

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

The jury is present.

Brent Oesterblad, Charles Rodrick, Traci Heisig, David Michael Ellis, Adam Galvez, Susan Galvez, and Lois Flynn are sworn.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003800

05/06/2014

Brent Oesterblad, having been sworn, now testifies.

Exhibits 72, 73, and 84 are received in evidence.

3:07 p.m. The jury is reminded of previous admonitions and leaves the courtroom. Court stands at recess.

3:26 p.m. Court reconvenes with the parties and respective counsel present.

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

The jury is present.

Brent Oesterblad resumes the stand and testifies further.

Exhibit 322 is offered into evidence, but not received.

Exhibits 112 and 259 are received in evidence.

The witness is excused, subject to possible recall.

Discussion is held regarding the trial schedule.

David Michael Ellis, having been sworn, now testifies.

Defendant/Counterclaimant David Michael Ellis' Exhibits 398 and 399 are marked for identification.

Exhibits 26, 44, and 399 are received in evidence.

4:17 p.m. The jury is reminded of previous admonitions and leaves the courtroom.

Court remains in session.

Discussion is held regarding trial procedure.

4:18 p.m. Court stands at recess until May 7, 2014 at 9:30 a.m.