

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2019-015684

05/21/2021

HONORABLE JAMES D. SMITH

CLERK OF THE COURT  
K. Treftz  
Deputy

EDET EFFIONG ASUQUO

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1701 W TUCKEY LN # 201  
PHOENIX AZ 85015

v.

LA FUENTE CONDOMINIUM ASSOCIATION

JONATHAN S WALLACK

JUDGE J. SMITH

MINUTE ENTRY

East Court Building – Courtroom 814

9:57 a.m. This is the time set for Oral Argument on Defendant's Rule 37 Motion for Sanctions (filed 04/21/2021). Plaintiff, Edet E. Asuquo, is present on his own behalf. Defendant, La Fuente Condominium Association, is represented by counsel, Jonathan S. Wallack.

A record of the proceedings is made digitally in lieu of a court reporter.

The Court informs Mr. Asuquo that Defendant is entitled to take his deposition and discussion is held regarding Mr. Asuquo's availability for a deposition.

**IT IS ORDERED** that Mr. Asuquo's in-person deposition will occur at **1:00 p.m. on June 9, 2021** at Mr. Wallack's office, 7301 N. 16<sup>th</sup> Street Suite 102, Phoenix, AZ 85020. The presumptive limit of the deposition will be four hours, not to include breaks. If the deposition goes beyond four hours, Mr. Asuquo shall be reasonable if counsel is asking meaningful, relevant questions.

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Discussion is held regarding questions that may be asked during Mr. Asuquo's deposition. The Court informs Mr. Asuquo that questions are limited to the existing scope of the case, which includes medical conditions he placed at issue.

Further discussion is held regarding Plaintiff's Appeal to Broaden Case and Settlement Conference by Including Defendant's Two Improper Maintenance Performed on HVAC on September 2015 (filed 04/30/2021). The Court states that there is still time for Mr. Asuquo to file a reply before the Court considers the submission.

Mr. Asuquo makes a request for the Court to enter an injunction against Defendant. The Court informs Mr. Asuquo that he would need to file an application for preliminary injunction with evidence to support his claim for the Court to consider.

Mr. Asuquo states that he requested a preliminary injunction in his Counter Motion and Appeal for Sanctions against Defendant under Rule 37 (filed 04/30/2021). The Court will evaluate said motion and determine if Plaintiff met the threshold to consider it as a preliminary injunction application.

Mr. Wallack requests clarification that the Court is not reopening discovery beyond allowing Mr. Asuquo's deposition. The Court confirms that limited scope.

Mr. Wallack states that the deadline to submit a motion for summary judgment will pass before Mr. Asuquo's deposition and requests to continue the trial. The Court states Mr. Wallack can file a motion to continue the trial and Mr. Asuquo will have an opportunity to respond.

Mr. Wallack asks for clarification on the Court's opinion of a short trial from the hearing on February 2, 2021. The Court states that the parties would need to agree on a short trial and it has no opinion on whether this matter is appropriate for a short trial.

Mr. Wallack requests reimbursement of fees incurred for Mr. Asuquo failing to appear at the previous deposition and filing Defendant's Rule 37 Motion for Sanctions. Mr. Asuquo states that he will pay for the cost of the transcript.

Discussion is held regarding documents that Defendant has provided Plaintiff in this matter. Mr. Wallack states that he will mail Mr. Asuquo a copy of all documents that Defendant has disclosed in this matter. The Court states that Mr. Asuquo shall manage his files by keeping originals and making copies of all documents provided by Defendant.

The Court addresses the Minute Entry (dated 05/19/2021) prohibiting either side from emailing Court staff unless the Court requests such an email.

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The Court encourages the parties to be professional and addresses the importance of the upcoming trial and deadlines in this matter.

10:39 a.m. Matter concludes.

LATER:

Defendant requested various sanctions in Defendant's Rule 37 Motion for Sanctions (filed 04/02/2021). The Court will award Defendant reasonable attorneys' fees incurred preparing the motion and reply. The Court will not award fees for attending the hearing May 21 because both sides used that hearing to address many other issues. The Court also will award Defendant the reasonable court reporter/transcript costs for Plaintiff's failure to appear. Last, the fee award will include reasonable fees for preparing the fee application. The fee application is due within 20 days of the Clerk entering this order.

**IT IS SO ORDERED.**