



MEMORANDUM

Date: May 23, 2022

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
County Administrator

Re: **City of Tucson Differential Water Rate Lawsuit Update**

On [May 10](#), I provided you with the proposed Court scheduling order and the Rule 16 joint report. Within the proposed schedule, the Court was to select dates for expert witness disclosure disputed by the two parties, and enter a trial setting conference date. The Court accepted the signed scheduling order on May 17 (Attachment 1) but has yet to select a date for expert witness disclosure. Court staff has advised that Judge Warner will issue a minute entry to address this matter.

The Court has also issued a minute entry scheduling a trial setting conference for March 7, 2023 (Attachment 2).

JKL/anc

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Yves Khawam, PhD, Assistant County Administrator for Public Works

ATTACHMENT 1

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13
14 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
15 IN AND FOR THE COUNTY OF MARICOPA

16 PIMA COUNTY, a body politic in the State
17 of Arizona,

No. CV2022-001141

18 Plaintiff,

19 v.

**[PROPOSED] SCHEDULING
ORDER**

20 CITY OF TUCSON, a municipal
corporation of the State of Arizona, et al.,,

(Assigned to Hon. Randall Warner)

21 Defendants.

22
23 Upon consideration of the parties Rule 16(c) Joint Report, the Court orders as
24 follows:

- 25 1. **Initial disclosure:** The parties will exchange Initial Disclosure Statements
26 on **May 27, 2022.**
27 2. **Expert Witness Disclosure:**
28 • The parties shall either [selected by the Court]:

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- Simultaneously disclose areas of expert testimony by **July 15, 2022**; *or*
 - Plaintiff shall disclose areas of expert testimony by **July 15, 2022** and Defendant disclose areas of expert testimony by **August 1, 2022**
 - Plaintiff shall disclose identity and opinions of experts by: **September 15, 2022**
 - Defendants shall disclose identity and opinions of experts by: **October 17, 2022**
 - Rebuttal expert opinions shall be disclosed by: **November 15, 2022**
3. **Lay (non-expert) Witness Disclosure:** The parties shall disclose all lay witnesses by: **October 15, 2022**
4. **Final Supplemental Disclosure:** Each party shall provide final supplemental disclosure by: **January 31, 2023** This order does not replace the parties' obligation to seasonably disclose Rule 26.1 information on an on-going basis and as it becomes available. **No party shall use any lay witness, expert witness, expert opinion, or exhibit at trial not disclosed in a timely manner, except upon order of the court for good cause shown or upon a written or an on-the-record agreement of the parties.**
5. **Discovery Deadlines:** Tier 3 cases are permitted 240 days in which to complete discovery. The time to complete discovery runs from the date of the Early Meeting. The parties will propound all discovery undertaken pursuant to Rules 33 through 36 by **September 30, 2022**. The parties will complete the depositions of parties and lay witness by **November 18, 2022** and will complete the depositions of expert witness by **December 31, 2022**. The parties will complete all other discovery by **January 31, 2023**. ("Complete discovery" includes conclusion of all depositions and submission of full and final responses to written discovery.)

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- 6. **Private Mediation:** The parties shall participate in mediation using a private mediator agreed to by the parties. The parties shall complete the mediation by: **November 11, 2022.**
- 7. **Dispositive Motions:** The parties shall file all dispositive motions by: **February 21, 2023.**
- 8. **Trial setting conference:** On _____ [the Court will provide this date], the Court will conduct a telephonic trial setting conference. Attorneys and self-represented parties shall have their calendars available for the conference. Plaintiff will initiate the conference call by arranging for the presence of all other counsel and self-represented parties, and by calling this division at _____ promptly at the scheduled time.
- 8. **Firm Dates:** No stipulation of the parties that alters a filing deadline or a hearing date contained in this scheduling order will be effective without an order of this court approving the stipulation. Dates set forth in this order that govern court filings or hearings are firm dates, and may be modified only with this court's consent and for good cause. This court ordinarily will not consider a lack of preparation as good cause.
- 11. **Further Orders:** The Court further orders as follows:

DATED: _____

The Honorable Randall Warner

eSignature Page 1 of 1

Filing ID: 14301042 Case Number: CV2022-001141
Original Filing ID: 14283804

Granted as Submitted



/S/ Randall Warner Date: 5/12/2022
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2022-001141

SIGNATURE DATE: 5/12/2022

E-FILING ID #: 14301042

FILED DATE: 5/17/2022 8:00:00 AM

CHARLES W WIRKEN

JEFFREY WILLIS

ATTACHMENT 2

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-001141

05/16/2022

HONORABLE RANDALL H. WARNER

CLERK OF THE COURT
A. Meza
Deputy

PIMA COUNTY

JEFFREY WILLIS

v.

CITY OF TUCSON, et al.

CHARLES W WIRKEN

JUDGE WARNER

MINUTE ENTRY

TRIAL SETTING CONFERENCE SET

Pursuant to the Scheduling Order electronically signed by the Court on May 12, 2022 and filed (entered) by the Clerk on May 17, 2022,

IT IS ORDERED setting a Trial Setting Conference on **March 7, 2023 at 9:00 a.m.** (**time allotted: 15 minutes**) in this division for the purpose of setting trial, if the case is ready to set trial. This matter will be heard by video/audio conference using **Court Connect**. Court Connect is the Superior Court in Maricopa County's new video court hearing platform. For more information about Court Connect, please visit: <https://superiorcourt.maricopa.gov/court-connect>.

A Court Connect video link will be emailed to counsel of record (or self-represented parties) the day before the hearing. All persons are strongly urged to appear by video instead of audio alone. For questions, please call Judge Warner's division at 602.372.2966, or email Courtroom Assistant Jenna Levine at Jenna.Levine@JBAZMC.Maricopa.Gov.

IT IS FURTHER ORDERED that, no less than **five (5) days** before the conference set above, the parties shall file a joint status report containing (1) a very brief description of the case;

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-001141

05/16/2022

(2) a statement of the status of discovery and other pertinent matters; (3) a list of pending motions or other matters, whether at issue or not; (4) the status of alternative dispute resolution; (5) when the parties anticipate the case will be ready for trial; and (6) how many trial days the parties estimate will be needed.

NOTE: All Court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.