

# JAMS ARBITRATION

No. 1220047191

HOWARD F. RUBY; HOWARD F. RUBY TRUST; MARINA DEL REY COUNTRY CLUB APARTMENTS; OAIGWOOD GARDEN APARTMENTS-SAN JOSE NORTH; OAKWOOD LASALLE, LP; BAY VILLAGE APARTMENTS; MARBRISAS HOLDINGS, LLC; MCA-OEC HOLDING, LLC; RBWC-OEC HOLDING, LLC; SIGNATURE POINTE INVESTORS, LP; SUNSET TERRACE APARTMENTS; YÆSTSIDE COUNTRY CLUB APARTMENTS; VERDUGO PARKVIEW APA2TMENTS; E. GILLIN; PI-IILIP H. 1998 IRREVOCABLE TRUST; LESTER TRACHIVIAN•, JANE TRACMAN•, L.E. TRACHMAN FAMILY TRUST; JIVIKP PROPERTY,

LLC, Claimants, and

ALLEN IVIATKiNS LECK GAMBLE MALLORY & NATSIS, LLP,  
Respondent,

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## AGENDA FOR FINAL PRETRIAL CONFERENCE

### **1) Scheduling Issues**

#### **a) Trial schedule:**

i) Normal hearing day: 9:00 a.m. 5:00 p.m., one hour for lunch ii) Flexibility to accommodate witnesses, counsel, i.e., start early, shorten lunch, work late iii) Any known conflicts? Other hearings, etc.

(1) Tuesdays 1/13, 1/20, 1/27 — hearing hours 9:00 a.m. 2:00 p.m., no lunch hour (RC class at USC)

### **2) -Time Division/Timekeeping**

a) Assures completion of hearing in time reserved

b) Parties must agree

c) Method: spreadsheet, assumes minimum of 6 hours 15 minutes (370 minutes) of proceedings per day, deducts from total hearing time (days x 370).

- 3) Reporter t) Arrangements to share cost?  
b) Daily?

4) Electronic filing

- a) Arbitrators gets all submissions in electronic form only: witness and exhibit lists, briefs and exhibits
- b) Email witness lists and briefs to [insert email address]
- c) Bring exhibits to hearing on thumb drive or DVD (instructions for preparation below)

5) Exhibits

- a) Each exhibit should be a separate .pdf file on thumb drive or DVD
- b) Please use following convention to label each exhibit: "Ex. ###-Abbreviated Name Doc—date"
  - i) Use of same convention by both sides assures exhibits will be in numerical sequence in electronic file ii) File directory serves as electronic exhibit list
- c) Joint exhibit list and thumb drive preferred
- d) One exhibit only for each exhibit both sides identify
- e) Numbering: Joint exhibits, 1- ; Claimant exhibits, 100; Respondent exhibits, 200-\_\_\_\_
- f) Internal pagination sufficient to identify every page of a document (and/or Bates Nos.)
- g) Means to display on screen at hearing, or,
- h) Binders for counsel's own use, witness, other side
- i) Expectation: minimize new exhibits at hearing, except impeachment; show new ones to opposing counsel the night before

6) Witnesses

- a) Witness lists include short description of each witness's anticipated testimony, and time estimate
- b) Witnesses not identified per Scheduling Order shall not be allowed to testify absent showing of good cause
- c) Witnesses usually will testify only once -not in each side's case in chief exception with arbitrators' permission for party witnesses who will attend hearing

- d) Identify to adversary next trial days witnesses by 6 pm (or other time mutually agreed on by counsel)
- e) Good trial practice: witness waiting at all times
- f) Witnesses by deposition
  - i) Not necessary to consume hearing time except for key testimony ii) Non-key testimony: provide arbitrators with .pdf file (designations and counter-designations in same file), and/or video clips; arbitrators will read off line.

#### 7) Pretrial Briefs

- a) Filing per Scheduling Order
- b) Page limits?

#### 8) Motions in limine

- a) Raise key evidentiary points in pretrial briefs
- b) No need for separate motions

#### 9) Opening Statements

- a) Encouraged
- b) Graphics, Demonstratives, Spreadsheets, Matrixes, etc, are welcome (exchange night before use)
- c) Time limits (TBD)

#### 10) Witness examination

- a) Background information (high school, college, employment history) normally should be very brief
- b) Expert witnesses: consider using CV for background
- c) Unnecessary for multiple witnesses to testify re non-key points ...'cumulative' objections will be sustained
- d) Avoid reading documents to witnesses ("Did I read that right?" "Do you see that?") or having the witness "read the document into the record "

#### 11) Objections

- a) Strict conformity to evidence law not required, except as to privilege
- b) Judgment in objecting save objections for that which truly matters
- c) Evidence objections are rarely a basis for successful challenge to award

d) Specific objections:

- i) Lack of foundation, vagueness, speculation, "misstates testimony", "assumes facts", "incomplete hypothetical"--routinely overruled
- ii) Relevance--likely overruled unless probative value marginal --arbitrators will give proper weight
- iii) Hearsay, authenticity--likely overruled--arbitrators will give proper weight
- iv) Argumentative — may be sustained
- v) Cumulative--sustain after a point

12) Closing Arguments/Post-Trial Briefs

- a) Discuss in course of main hearing
- b) Arbitrators prefer argument at end without further briefing.
- c) Any legal point that arises during the hearing may be addressed in a supplemental brief at any time

13) Logistics

- a) Liaison, Britini Naismith, 310/392-xxxx
- b) Set up room on 1/9/15 prior to first day of hearing (will make room available if possible)
- c) 'War rooms'
- d) Meals (order through receptionist)
- e) Client services at JAMS
  - i) computers
  - ii) internet
  - iii) printing
  - iv) copying
  - v) Wireless for your laptop

14) Other Issues??