

ATTACHMENT 28

Clerk of the Superior Court
*** Filed ***

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

1/15/2020 @ 8:00 AM

CV 2019-012879

01/14/2020

HONORABLE DANIEL J. KILEY

CLERK OF THE COURT
D. Tapia
Deputy

KIP M MICUDA, et al.

KIP M MICUDA
4900 N SCOTTSDALE RD STE 1500
SCOTTSDALE AZ 85251

v.

DAMON BRUNS, et al.

DAVID AARON BROWN

ANN HAUGEN
4900 N SCOTTSDALE RD STE 1500
SCOTTSDALE AZ 85251
DAVID J CANTELME
JUDGE KILEY

MINUTE ENTRY

East Court Building – Courtroom 911

Prior to commencement of this hearing, Plaintiff's Exhibits 1 through 43 and Defendants' Exhibits 44 through 63 were marked for identification.

11:30 a.m. This is the time set for an Evidentiary Hearing to determine the appropriate amount of the bond. Plaintiff Kip M. Micuda is present on his own behalf. Defendants are represented by counsel, David J. Cantelme and David Aaron Brown.

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

Discussion is held regarding evidentiary hearing matters.

Opening statements are presented.

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Defendant's case:

Damon Bruns is sworn and testifies.

On Defendants' motion, Exhibits 61, 62, 63, 59 and 44 are received in evidence.

The parties are advised of their time estimates.

12:01 p.m. Court stands at recess.

1:17 p.m. Court reconvenes with respective counsel and parties present.

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

Mr. Cantelme notifies the Court that the parties might be able to resolve the issues in this matter. The Court will give the parties an opportunity to confer prior to continuing with today's hearing.

1:20 p.m. Court stands at recess.

1:35 p.m. Court reconvenes with respective counsel and parties present.

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

Mr. Cantelme notifies the Court that the parties have reached an agreement and recites the terms on the record.

By agreement of the parties

IT IS ORDERED modifying the December 3, 2019 Order and entering a Preliminary Injunction Order under the following terms:

- Defendant Dynamite Water will remove all but two water trucks from the "Property" (as that term is defined in the Minute Entry of December 3, 2019).
- Until March 1, 2020, Dynamite Water may use the two trucks on the Property between the hours of 7:00 a.m. and 6:00 p.m. Beginning March 1, 2020, Dynamite Water may use those two trucks between the hours of 6:00 a.m. and 6:00 p.m.

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- No repairs or maintenance will be performed on the trucks at the Property on weekends. Light repairs may be performed on the trucks at the Property on Monday through Friday.
- No refueling of the trucks will be done at the Property at any time.
- After a truck leaves the Property, it may return only once that same day. No truck may leave a second time in a single day.
- The parties shall consult with the Maricopa County Planning and Zoning Department to determine if the other equipment at the Property is in violation of the Zoning Code. If it is, the equipment shall be removed. If not, the equipment need not be removed.
- This order shall constitute a preliminary injunction and is enforceable by the Court as such. No bond shall be required.
- This order is without prejudice to any party's position in further legal proceedings.

All parties acknowledge the terms of the agreements as stated on the record.

Pursuant to the parties settlement, and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of Court,

IT IS ORDERED that the Clerk permanently release all exhibits (including those offered and received in evidence) to the counsel/party causing them to be marked or their written designee. Counsel/party or written designee shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibits Department of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

1:42 p.m. Matter concludes.


Daniel J. Kiley
Judge of the Superior Court