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Babbitt Smith Engineering, LLC f/k/a  
Babbitt Nelson Engineering, LLC and  
Darren E. Smith*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF YAVAPAI**

BFL CONSTRUCTION CO., INC., an  
Arizona corporation,

Plaintiff

v.

PINON LOFTS, LLC, an Arizona limited  
liability company; MARSTON-KEITH  
COMPANY, INC d/b/a MK COMPANY,  
an Arizona corporation; ORIX REAL  
ESTATE CAPITAL, LLC, a Delaware  
limited liability company; BMA  
ARCHITECTURE, LLC, an Arizona  
limited liability company; ATLANTIC  
SPECIALTY INSURANCE COMPANY, a  
New York corporation; BRIAN M.  
ANDERSEN, husband and wife; PARTIES  
IN POSSESSION 1-10; ABC  
CORPORATIONS 1-10; XYZ  
PARTNERSHIPS 1-10; JOHN DOES 1-10;  
and JANE DOES 1-10,

Defendants.

Case No. V1300CV202180084

**AMENDED SCHEDULING ORDER**  
**(Tier 3)**

1 BMA ARCHITECTURE, LLC, an Arizona  
2 limited liability company;

3 Third-Party Plaintiff,

4 v.

5 BABBIT SMITH ENGINEERING, LLC  
6 f/k/a BABBITT NELSON ENGINEERING,  
7 LLC, an Arizona limited liability company;  
8 DARREN E. SMITH and JANE DOE  
SMITH, husband and wife.

Third-Party Defendants.

9 Upon consideration of the Parties' Joint Motion for Amended Scheduling Order, and  
10 good cause appearing therefor,

11 IT IS HEREBY ORDRED setting the following remaining deadlines:

12 1. **Initial Disclosures:** All Parties other than BSE have exchanged initial  
13 disclosure statements. BSE will make its initial disclosure on or before **February 10, 2023**.

14 2. **Expert Witness Disclosures:**

15 a. **Areas of Expert Witness Testimony:** BSE will disclose its areas of  
16 anticipated expert testimony by **February 20, 2023**.

17 b. **Identity and Opinions of Expert Witnesses for Affirmative Claims:**  
18 BMA shall disclose the identity and opinions of experts, if any,  
19 concerning its affirmative claims against BSE by **March 17, 2023**.

20 c. **Identity and Opinions of Expert Witnesses for Defenses:** BSE shall  
21 disclose the identity and opinions of experts concerning defenses by  
22 April 7, **2023**.

23 d. **Opinions of Rebuttal Expert Witnesses:** The Parties shall disclose  
24 their rebuttal expert opinions by May 12, **2023**.

25 3. **Lay (non-expert) Witness Disclosure:** The Parties shall simultaneously  
26 disclose all lay witnesses by **February 28, 2023**.

27 4. **Final Supplemental Disclosure:**

- 1           a.     Each Party shall make any final supplemental disclosures by **July 28,**  
2                 **2023.**
- 3           b.     This Order does not replace the Parties' obligation to continue to  
4                 disclose ARCP Rule 26.1 information on an on-going basis and as it  
5                 becomes available.
- 6           c.     No Party shall use any lay witness, expert witness, expert opinion, or  
7                 exhibit at trial not disclosed in a timely manner, except (1) upon order  
8                 of the Court for good cause shown, or (2) upon a written or an on-the-  
9                 record agreement of the Parties.

10       **5.     Discovery Deadlines:**

- 11           a.     The Parties will submit all discovery pursuant to ARCP Rules 33  
12                 through 36 by **March 24, 2023.**
- 13           b.     The Parties will complete the depositions of parties and lay witnesses  
14                 by July 28, **2023.**
- 15           c.     The Parties will complete the depositions of expert witnesses by **July**  
16                 **28, 2023.**
- 17           d.     The Parties will complete all other discovery by **July 28, 2023.**
- 18           e.     "Complete discovery" includes the conclusion of all depositions and  
19                 submission of full and final responses to written discovery.

20       **6.     Private Mediation:**

21           The Parties shall participate in mediation using a private mediator agreed to by  
22           the Parties by **August 18, 2023.**

23       **7.     Dispositive Motions and Trial:**

- 24           a.     The Parties shall file all dispositive motions by **August 31, 2023.**
- 25           b.     The Parties will be prepared for a trial date of no later than **January 29,**  
26                 **2024.**
- 27           c.     The Parties believe the trial will last 10-15 days.

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