

Court of Appeals, Division One

Civil Appeal

1 CA-CV 22-0647

FINCHEM, et al. v. FERNANDEZ

Appellate Case Information

Case Filed: 28-Oct-2022

Case Closed:

Dept/Composition

Department A

Hon. Randall M Howe
Hon. Jennifer M Perkins
Hon. Daniel J Kiley

Side 1. MARK FINCHEM; ANTHONY KERN; and PAUL GOSAR (each in their personal capacity), Plaintiff/Appellant

(Litigant Group) MARK FINCHEM; ANTHONY KERN; and PAUL GOSAR (each in their personal capacity)

- Mark Finchem
Anthony Kern
Paul Gosar

Counsel for: Plaintiffs/Appellants

Timothy A LaSota, Esq. (AZ Bar No. 20539)

Side 2. CHARLENE FERNANDEZ (in her personal capacity), Defendant/Appellee

(Litigant Group) CHARLENE FERNANDEZ (in her personal capacity)

- Charlene Fernandez

Co-Counsel for: Defendant/Appellee

David Jeremy Bodney, Esq. (AZ Bar No. 6065)
Matthew E Kelley, Esq. (AZ Bar No. 37353)
Kennison Lay, Esq. (AZ Bar No. 37098)

CASE STATUS

Aug 23, 2024....Under Advisement

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: YUM, S1400CV202100146, Defamation, Levi Gunderson, Authoring Judge of Order.

DESCENDENT CASE(S)

ASC CV-23-0220-PR

2 OPEN DUE DATES

Simultaneous Supplemental Brief due

Due By: Wednesday, September 18, 2024

Re: * ORDERED: Directing the parties to file simultaneous supplemental briefs addressing this issue no later than 20 days from the date of the filing of this order. The briefs shall not exceed 2,500 words and shall otherwise conform with the requirements of A

Simultaneous Supplemental Brief due

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CASE DECISION

10-Aug-2023 MEMORANDUM DECISION

Randall Howe.....Author
Jennifer Perkins.....Concur
Daniel Kiley.....Concur

Filed: 10-Aug-2023 Mandate:

Decision Disposition

Affirmed

35 PROCEEDING ENTRIES

- 1. 3-Oct-2022 FILED: Copy of Notice of Filing of Appeal filed in Yuma County Superior Court on 09/30/2022
2. 28-Oct-2022 FILED: Index of Record, Notice of Appeal from Yuma County Superior Court filed 09/28/22
3. 28-Oct-2022 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: Hearing Date 6/21/21 A, Hearing Date 8/27/21 A, B, C; Hearing Date 8/3/21 A; Hearing Date 9/13/21 1, 2 Hearing Date 2/18/22 A, B; Hearing Date 6/20/22 A

Court of Appeals, Division One**Civil Appeal****1 CA-CV 22-0647****FINCHEM, et al. v. FERNANDEZ****35 PROCEEDING ENTRIES**

4. 28-Oct-2022 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
5. 14-Nov-2022 FILED: Notice of Appearance; Certificate of Service (Appellant)
6. 17-Nov-2022 FILED: Case Management Statement; Certificate of Service (Appellant)
7. 17-Nov-2022 RECEIPT No.: 2022-01177 ; \$280.00, Authorization: #21006384266, Applied to: MARK FINCHEM; ANTHONY KERN; and PAUL GOSAR (each i - Class A Filing Fee (\$280.00) Paid for: Broening Oberg Woods & Wilson PC - By nCourt LLC
8. 18-Nov-2022 FILED: Notice of Withdrawal of Counsel; Certificate of Service (Appellee)
9. 21-Nov-2022 FILED: Notice of Withdrawal of Counsel; Certificate of Service (Appellant)
10. 21-Nov-2022 FILED: Notice of Receipt of Complete Application; Certificate of Good Standing; Application for Appearance Pro Hac Vice; Letter from AZ State Bar Re Current Status (Appellant)
11. 28-Nov-2022 FILED: Notice of Withdrawal of Counsel; Certificate of Service (Appellant)
12. 29-Nov-2022 FILED: Motion for Procedural Order Extending Time to File Opening Brief; Certificate of Service (Appellant)
13. 30-Nov-2022 ORDERED: Motion for Procedural Order Extending Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 12-27-2022 to Tuesday, 01-10-2023. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
14. 8-Dec-2022 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief Due
15. 19-Dec-2022 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellee)
16. 22-Dec-2022 RECEIPT No.: 2022-01278 ; \$140.00, Authorization: #56006447843, Applied to: CHARLENE FERNANDEZ (in her personal capacity) - Class B Filing Fee (\$140.00) Paid for: Ballard Spahr LLP - By nCourtLLC
17. 10-Jan-2023 FILED: Opening Brief of Plaintiffs/Appellants Mark Finchem, Anthony Kern and Paul Gosar; Certificate of Compliance; Certificate of Service (Appellant)
18. 27-Feb-2023 FILED: Appellee Charlene Fernandez's Answering Brief; Certificate of Compliance; Certificate of Service; Exhibit 1 (Appellee)
19. 27-Mar-2023 FILED: Reply Brief of Plaintiffs/Appellants Mark Finchem, Anthony Kern and Paul Gosar; Certificate of Compliance; Certificate of Service (Appellant)
20. 3-Apr-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
21. 10-Apr-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
22. 30-May-2023 CLNDR: CONFERENCE, Department A, 7-5-23, CONFERENCE ROOM.
23. 10-Aug-2023 MEMORANDUM DECISION (Affirmed) Hon Randall M Howe - Author; Hon Jennifer M Perkins - Concur; Hon Daniel J Kiley - Concur
24. 10-Aug-2023 FILED: Memorandum Decision Distribution List
25. 22-Aug-2023 FILED: Appellee Charlene Fernandez's Itemized and Verified Statement of Attorneys' Fees and Costs; Certificate of Service; Declaration of David J. Bodney in Support of Appellee Charlene Fernandez's Itemized and Verified Statement of Attorneys' Fees and Costs (Appellee)
26. 28-Aug-2023 FILED: ASC Order filed 08/28/2023 re: extending time for filing Petition for Review to 10/02/2023
27. 29-Aug-2023 FILED: Motion to Substitute Counsel for Plaintiffs/Appellants; Certificate of Service (Appellants)
28. 31-Aug-2023 FILED: ASC Order filed 08/31/2023 re: granting Appellant's Motion to Substitute Counsel
29. 6-Sep-2023 ORDERED: Motion to Substitute Counsel for Plaintiffs/Appellants (Appellants) = New counsel will be recognized as counsel of record and no further action will be taken. Hon Randall M Howe - Author
30. 22-Sep-2023 ORDERED: Appellee Charlene Fernandez's Itemized And Verified Statement Of Attorneys' Fees and Costs (Appellee) = GRANTED and awarding appellee her costs in the amount of \$157.60 and attorneys' fees in the amount of \$40,000 for a total of \$40,157.60. Hon Randall M Howe - Author
31. 4-Oct-2023 FILED: Email Notice from ASC re: Petition for Review filed 10/02/2023; request for partial record
32. 4-Oct-2023 FILED: Letter forwarding partial record to Arizona Supreme Court

Court of Appeals, Division One

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35 PROCEEDING ENTRIES

33. 23-Aug-2024 FILED: Letter from ASC, 8/23/24, re: Petition for Review GRANTED on 8/20/24. FURTHER ORDERED: Remanding matter to the Court of Appeals. FURTHER ORDERED: Request for Attorney's Fees (Appellee Fernandez) = DENIED.
34. 29-Aug-2024 ORDERED: Directing the parties to file simultaneous supplemental briefs addressing this issue no later than 20 days from the date of the filing of this order. The briefs shall not exceed 2,500 words and shall otherwise conform with the requirements of Arizona Rule of Civil Appellate Procedure 4. Hon Randall M Howe - Author
35. 11-Sep-2024 FILED: Arizona Supreme Court Mandate to COA1 - Remanded to COA1