

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0041

SMITH v. OLSEN

Appellate Case Information

Case Filed: 20-Jan-2023

Case Closed:

Dept/Composition

Department B

Hon. Michael J Brown
Hon. Andrew M Jacobs
Hon. Samuel A Thumma

Consolidated with: 1 CA-CV 22-0565

Side 1. MELISSA SMITH, Plaintiff/Appellee

(Litigant Group) MELISSA SMITH

- Melissa Smith

Attorneys for: Plaintiff/Appellee

Michael P Fiflis, Esq. (AZ Bar No. 16486)

Side 2. BLAIR EDWARDS OLSEN, Defendant/Appellant

(Litigant Group) BLAIR EDWARDS OLSEN

- Blair Edwards Olsen

Attorneys for: Defendant/Appellant

Ryan J Lorenz, Esq. (AZ Bar No. 19878)
Barrett N Lindsey, Esq. (AZ Bar No. 28311)

CASE STATUS

Jul 3, 2024.....Pending in ASC

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2017-053483, Breach of Contract, Bradley H Astrowsky, Authoring Judge of Order.

Table with 2 columns: DESCENDENT CASE(S), Cause/Charge/Class. Row 1: ASC, CV-24-0141-PR.

2 CASE DECISIONS

30-May-2024 OPINION

Andrew Jacobs.....Author
Michael Brown.....Concur
Samuel Thumma.....Concur

Filed: 30-May-2024 Mandate:

Table with 1 column: Decision Disposition. Content: Affirmed in Part, Reversed in Part, Remanded.

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)

1 CA-CV 22-0565 SMITH v. OLSEN

03-Jun-2024 OPINION

Andrew Jacobs.....Author
Michael Brown.....Concur
Samuel Thumma.....Concur

Filed: 03-Jun-2024 Mandate:

Table with 1 column: Decision Disposition. Content: Affirmed in Part, Reversed in Part, Remanded.

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)

1 CA-CV 22-0565 SMITH v. OLSEN

48 PROCEEDING ENTRIES

- 1. 20-Jan-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 12/23/22
2. 20-Jan-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: Transmitted with CV22-0565; Hearing Date 11/16/20 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 25, 26, 27, 28

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0041****SMITH v. OLSEN****48 PROCEEDING ENTRIES**

3. 20-Jan-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 26-Jan-2023 ORDERED: Appellee's Second Amended Motion to Dismiss for Failure to Timely File and Serve Transcripts (Appellee) = DENIED without prejudice to appellee requesting attorney's fees and costs in connection with the issues raised in this motion in the answering brief. FURTHER ORDERED: Appellant shall immediately serve appellee with all transcripts filed in this appeal. If appellant fails to serve appellee with the transcripts, the court will consider imposing sanctions, including dismissing this appeal. FURTHER ORDERED: Lifting the stay of appeal 1 CA-CV 22-0565. FURTHER ORDERED: Consolidating cases 1 CA-CV 22-0565 and 1 CA-CV 23-0041. Case no. 1 CA-CV 22-0565 is designated the primary number. FURTHER ORDERED: In accordance with the Appellate Clerk Notice issued on 01/20/2023, in appeal 1 CA-CV 23-0041, appellant's filing fee of \$280.00 is due on 02/03/2023. FURTHER ORDERED: Appellee's filing fee of \$140.00 for appeal 1 CA-CV 23-0041, is due on 02/13/2023. FURTHER ORDERED: The case management statement for appeal 1 CA-CV 23-0041 is due on 02/09/2023. FURTHER ORDERED: The consolidated opening brief is due on 03/21/2023. Hon Kent E Cattani - Author
5. 31-Jan-2023 FILED: Reporter's Transcript - 04/02/2021 - Final Trial Management Conference (Donna Terrell) (Appellant)
6. 31-Jan-2023 FILED: Reporter's Transcript - 12/16/2020 - Evidentiary Hearings (Donna Terrell) (Appellant)
7. 31-Jan-2023 FILED: Reporter's Transcript - 03/15/2019 - Final Trial Management Conference (Donna Terrell) (Appellant)
8. 31-Jan-2023 FILED: Reporter's Transcript - 09/02/2021 - Trial Setting Conference (Donna Terrell) (Appellant)
9. 31-Jan-2023 FILED: Reporter's Transcript - 10/14/2020 - Evidentiary Hearing (Donna Terrell) (Appellant)
10. 31-Jan-2023 FILED: Reporter's Transcript - 11/26/2018 - Evidentiary Hearing (Donna Terrell) (Appellant)
11. 31-Jan-2023 FILED: Reporter's Transcript - 10/16/2018 - Evidentiary Hearing (Donna Terrell) (Appellant)
12. 31-Jan-2023 FILED: Case Management Statement (Appellant)
13. 31-Jan-2023 FILED: Appellant's Notice of Service of Transcripts; Certification of Service (Appellant)
14. 6-Feb-2023 RECEIPT No.: 2023-00130 ; \$280.00, Authorization: #37011696852, Applied to: BLAIR EDWARDS OLSEN - Class A Filing Fee (\$280.00) Paid for: Clark Hill PLC - By nCourt LLC
15. 13-Feb-2023 FILED: Appellee's Notice of Payment of Filing Fee in 1 CA-CV 23-0041; Certificate of Service of Appellee's Notice of Payment of Filing Fee (Appellee)
16. 17-Feb-2023 RECEIPT No.: 2023-00167 ; \$140.00, Authorization: #48009146904, Applied to: MELISSA SMITH - Class B Filing Fee (\$140.00) Paid for: Law Office of Michael P Fiflis - By nCourt LLC
17. 16-Mar-2023 FILED: Defendant/Appellant's (Unopposed) Motion For Procedural Order Re: Extension Of Time To File Opening Brief; Certification of Service (Appellant)
18. 21-Mar-2023 ORDERED: Defendant/Appellant's (Unopposed) Motion For Procedural Order Re: Extension Of Time To File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 03-21-2023 to Monday, 04-03-2023. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
19. 3-Apr-2023 FILED: Appellant's Motion To Exceed Page Limit; Certification Of Service (Appellant)
20. 3-Apr-2023 FILED: Appellant's Opening Brief; Appellant's Certificate Re Compliance Re Opening Brief; Certification Of Service (Appellant)
21. 20-Apr-2023 ORDERED: Appellant's Motion To Exceed Page Limit (Appellant) = GRANTED and accepting the opening brief filed on 04/03/2023. Hon Kent E Cattani - Author
22. 4-May-2023 FILED: Appellee's Motion for Procedural Order Extending Time to File Response Brief; Certificate of Service of Appellee's Motion for Procedural Order Extending Time to File Response Brief (Appellee)
23. 5-May-2023 ORDERED: Appellee's Motion for Procedural Order Extending Time to File Response Brief (Appellee) = GRANTED. Due date EXTENDED from Monday, 05-15-2023 to Friday, 06-09-2023. If the brief is not timely filed, the court will submit this appeal for decision on the record and the opening brief. Melina Brill ProTem Judge - Author
24. 9-Jun-2023 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service of Appellee's Answering Brief (Appellee)
25. 19-Jun-2023 FILED: Appellee's Notice of Errata in Answering Brief; Certificate of Service of Appellee's Notice of Errata in Answering Brief (Appellee)
26. 29-Jun-2023 FILED: Appellant's Reply Brief; Appellant's Certificate of Compliance Re Reply Brief; Certification of Service (Appellant)
27. 30-Jun-2023 FILED: Appellant's Motion to Exceed Page Limit; Certification of Service (Appellant)
28. 6-Jul-2023 FILED: Appellant's Request for Oral Argument; Certification Of Service (Appellant)

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29. 14-Jul-2023 FILED: Appellee's Request for Oral Argument; Certificate of Service of Appellee's Request for Oral Argument (Appellee)
30. 17-Jul-2023 ORDERED: Appellant's Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
31. 18-Jul-2023 ORDERED: Appellant's Motion to Exceed Page Limit (Appellant) = GRANTED and accepting the reply brief filed on 06/29/2023. Hon David B Gass - Author
32. 31-Jul-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
33. 11-Aug-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
34. 26-Aug-2023 CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 10-17-23, 09:30 am, CONFERENCE ROOM.
35. 28-Aug-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Michael Fiflis on 08/28/2023 (Appellee)
36. 4-Oct-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Ryan Lorenz on 08/28/2023 (Appellant)
37. 13-Oct-2023 ORDERED: Vacating oral argument set for 10/17/2023 at 9:30 a.m. FURTHER ORDERED: Setting oral argument for 12/5/2023 at 10:00 a.m. in Courtroom 1. Hon Michael J Brown - Author
38. 30-Oct-2023 FILED: Notice of Oral Argument
39. 1-Nov-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Ryan Lorenz on 10/30/2023 (Appellant)
40. 8-Nov-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Michael Fiflis on 10/30/2023 (Appellee)
41. 5-Dec-2023 FILED: Sign-in Sheet/Case is Under Advisement as of 12/05/2023
42. 30-May-2024 OPINION (Affirmed in Part, Reversed in Part, Remanded) Hon Andrew M Jacobs - Author; Hon Michael J Brown - Concur; Hon Samuel A Thumma - Concur
[withdrawn per order filed 06/03/2024]
43. 30-May-2024 FILED: Decision Distribution Notification
44. 3-Jun-2024 OPINION (Affirmed in Part, Reversed in Part, Remanded) Hon Andrew M Jacobs - Author; Hon Michael J Brown - Concur; Hon Samuel A Thumma - Concur
45. 3-Jun-2024 FILED: Decision Distribution Notification
46. 3-Jun-2024 ORDERED: Withdrawing the Opinion filed on 05/30/2024 and replacing with the Opinion filed this date. The amended Opinion merely corrects formatting and alters no verbiage in the Opinion. Hon Andrew M Jacobs - Author
47. 3-Jul-2024 FILED: Email Notice from ASC re: Petition for Review filed 07/02/2024; request for partial record
48. 3-Jul-2024 FILED: Letter forwarding partial record to Arizona Supreme Court