

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0273

BROWN, et al. v. PHOENIX

Appellate Case Information

Case Filed: 22-May-2023

Case Closed:

Dept/Composition

Department D

Hon. Samuel A Thumma
Hon. Jennifer B Campbell
Hon. Michael J Brown

Consolidated with: 1 CA-CV 23-0689

Side 1. FREDDY BROWN, et al., Plaintiff/Appellee

(Litigant Group) FREDDY BROWN, et al.

- Freddy Brown

Attorneys for: Plaintiff/Appellee

Stephen W Tully, Esq. (AZ Bar No. 14076)

Ilan Wurman, Esq. (AZ Bar No. 34974)

Michael G Bailey, Esq. (AZ Bar No. 13747)

Side 2. CITY OF PHOENIX, Defendant/Appellant

(Litigant Group) CITY OF PHOENIX

- City of Phoenix

Attorneys for: Defendant/Appellant

Aaron D Arnson, Esq. (AZ Bar No. 31322)

Trish Stuhan, Esq. (AZ Bar No. 27218)

Stephen B Coleman, Esq. (AZ Bar No. 21715)

Justin S Pierce, Esq. (AZ Bar No. 22646)

CASE STATUS

Aug 27, 2024....Decision Rendered

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2022-010439, Preliminary Injunction, Scott A Blaney, Authoring Judge of Order.

4 OPEN DUE DATES

Motion for Reconsideration due Due By: Wednesday, September 11, 2024

Re: OPINION (Affirmed as Clarified) Hon Samuel A Thumma - Author; Hon Jennifer B Campbell - Concur; Hon Michael J Brown - Concur

Response to Attorneys Fees due Due By: Monday, September 16, 2024

Re: FILED: Plaintiffs' Application for Reasonable Attorneys' Fees and Taxable Costs on Appeal; Certificate of Service; Declaration of Ilan Wurman in Support of Plaintiffs' Application for Attorneys' Fees and Costs on Appeal (Appellees)

Response to Costs due Due By: Monday, September 16, 2024

Re: FILED: Plaintiffs' Application for Reasonable Attorneys' Fees and Taxable Costs on Appeal; Certificate of Service; Declaration of Ilan Wurman in Support of Plaintiffs' Application for Attorneys' Fees and Costs on Appeal (Appellees)

Petition for Review to ASC due Due By: Thursday, September 26, 2024

Re: OPINION (Affirmed as Clarified) Hon Samuel A Thumma - Author; Hon Jennifer B Campbell - Concur; Hon Michael J Brown - Concur

2 PENDING MATTERS

General Motion Filed: 30-Aug-2024

Plaintiffs' Application for Reasonable Attorneys' Fees and TAXABLE COSTS on Appeal (Appellee)

General Motion Filed: 30-Aug-2024

Plaintiffs' Application for Reasonable ATTORNEYS' FEES and Taxable Costs on Appeal (Appellee)

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0273

BROWN, et al. v. PHOENIX

CASE DECISION

27-Aug-2024 OPINION

Samuel Thumma.....Author
Jennifer Campbell.....Concur
Michael Brown.....Concur

Table with columns: Filed: 27-Aug-2024, Mandate: Decision Disposition Affirmed as Clarified

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)
1 CA-CV 23-0689 BROWN, et al. v. PHOENIX

67 PROCEEDING ENTRIES

- 1. 22-May-2023 FILED: Appellant City of Phoenix's Motion to Stay; Certificate of Service; Notice of Appeal; Under Advisement Ruling (Appellant)
2. 22-May-2023 FILED: Exhibits A-D; Section 2 Site Information; Sale Comps Details; Exhibits E-K (Appellant)
3. 22-May-2023 FILED: Notice of Filing Transcripts; Certificate of Service; (Reporter's Transcript - 09/21/2022 - Application For Preliminary Injunction (Elana Friedman)) (Reporter's Transcript - 10/27/2022 - Oral Argument and Evidentiary Hearing (Melissa Boyd)) (Reporter's Transcript - 12/08/2022 - Oral Argument (Elana Friedman)) (Reporter's Transcript - 12/15/2022 - Oral Argument (Brenda Clark)) (Appellant)
4. 25-May-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 4/26/2023
5. 25-May-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
6. 25-May-2023 ORDERED: Denying the request for an expedited ruling. The court will rule on the motion following expiration of the time for a response and, if applicable, a reply. FURTHER ORDERED: Denying the request to vacate trial. Hon Kent E Cattani - Author
7. 25-May-2023 FILED: Additional Record on Appeal: Physical Exhibits: Hearing Date 10/27/2022 - List # 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 in a Manila Envelope
8. 31-May-2023 FILED: Notice of Appearance; Certificate of Service (Appellee)
9. 31-May-2023 FILED: Opposition to Appellant's Motion to Stay Pending Appeal; Certificate of Service; Strategies to Address Homelessness; Defendant City of Phoenix's Opposition to Plaintiffs' Request for Modification of Preliminary Injunction and Motion for Order to Show Cause (Appellee)
10. 5-Jun-2023 RECEIPT No.: 2023-00489 ; \$140.00, Authorization: #56013282046, Applied to: FREDDY BROWN, et al. - Class B Filing Fee (\$140.00) Paid for: Ilan Wurman - By nCourt LLC
11. 6-Jun-2023 FILED: Appellate Clerk Notice re: Case Management Statement/Brief Due
12. 7-Jun-2023 FILED: Reply in Support of Motion to Stay Pending Appeal; Certificate of Service (Appellant)
13. 9-Jun-2023 ORDERED: Appellant City of Phoenix's Motion to Stay (Appellant) = DENIED. FURTHER ORDERED: Pursuant to Eaton Fruit Co. v. California Spray-Chemical Corp., staying appeal until 07/10/2023. Signed order re: minute entry of 03/27/2023 filed 03/27/2023 due within 10 days after its entry. If appeal reinstated by filing of signed order, case management statement is due 07/20/2023 and opening brief is due 08/09/2023. Hon Jennifer B Campbell - Author
14. 15-Jun-2023 FILED: Copy of Maricopa County Superior Court ME filed 06/13/2023 re: signed under advisement order
15. 22-Jun-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
16. 20-Jul-2023 FILED: Case Management Statement (Appellant)
17. 20-Jul-2023 FILED: Order Entered by Court (Copy of Maricopa County Superior Court ME filed 06/13/2023 re: Under Advisement Ruling); Certification of Service (Appellant)
18. 9-Aug-2023 FILED: Opening Brief of Defendant/Appellant; Certificate of Compliance; Certificate of Compliance (Certificate of Service) (Appellant) [substituted with brief filed on 08/10/2023]
19. 10-Aug-2023 FILED: Opening Brief Of Defendant/Appellant; Certificate of Compliance; Certificate of Service (Appellant)
20. 10-Aug-2023 FILED: Notice Of Filing Corrected Opening Brief Of Defendant/Appellant Due To Errata; Certificate of Service (Appellant)

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0273****BROWN, et al. v. PHOENIX****67 PROCEEDING ENTRIES**

21. 11-Aug-2023 ORDERED: Accepting the opening brief filed on 08/10/2023 in place of the brief filed on 08/09/2023. FURTHER ORDERED: Answering brief is due on 09/19/2023. Melina Brill ProTem Judge - Author
22. 19-Sep-2023 FILED: Answering Brief of Plaintiffs-Appellees; Certificate of Compliance; Certificate of Service (Appellee)
23. 9-Oct-2023 FILED: Reply Brief of Defendant/Appellant; Certificate of Compliance; Certificate of Service (Appellant)
24. 9-Oct-2023 FILED: Appendix (Appellant)
25. 16-Oct-2023 FILED: Appellant City of Phoenix's Expedited Motion to Consolidate; Certificate of Service (Appellant)
26. 16-Oct-2023 FILED: Appellant City of Phoenix's Motion to Stay Superior Court's Permanent Injunction; Certificate of Service (Appellant)
27. 17-Oct-2023 FILED: Notice of Filing Exhibits in Support of Appellant City of Phoenix's Motion to Stay Superior Court's Permanent Injunction; Certificate of Service; Exhibit 1 (To Appellant City of Phoenix's Motion to Stay Superior Court's Permanent Injunction); Exhibit 5 (To Appellant City of Phoenix's Motion to Stay Superior Court's Permanent Injunction) (Appellant)
28. 17-Oct-2023 FILED: Notice of Filing Exhibits in Support of Appellant City of Phoenix's Expedited Motion to Consolidate; Certificate of Service; Exhibit 1 (To Appellant City of Phoenix's Expedited Motion to Consolidate) (Appellant)
29. 17-Oct-2023 ORDERED: Responses to both motions (Motion to Consolidate and Motion to Stay) shall be filed by 10/24/2023. FURTHER ORDERED: Replies shall be filed by 10/30/2023. The court will rule on both motions following expiration of time for responses and replies. Melina Brill ProTem Judge - Author
30. 23-Oct-2023 FILED: Appellees' Response to Appellant's Motion to Consolidate; Certificate of Service (Appellee)
31. 23-Oct-2023 FILED: Appellees' Response to Appellant's Motion to Stay Permanent Injunction Pending Appeal; Certificate of Service; Exhibit A (To Appellees' Response to Appellant's Motion to Stay Permanent Injunction Pending Appeal); Exhibit B (To Appellees' Response to Appellant's Motion to Stay Permanent Injunction Pending Appeal) (Appellee)
32. 26-Oct-2023 FILED: City of Phoenix's Reply in Support of Motion to Stay Superior Court's Permanent Injunction; Certificate of Service; Exhibit 1 (To City of Phoenix's Reply in Support of Motion to Stay Superior Court's Permanent Injunction) (Appellant)
33. 30-Oct-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
34. 30-Oct-2023 ORDERED: Appellant City of Phoenix's Motion to Stay Superior Court's Permanent Injunction (Appellant) = DENIED. FURTHER ORDERED: Appellant City of Phoenix's Expedited Motion to Consolidate (Appellant) = GRANTED in part and consolidating this appeal from the preliminary injunction with the 10/04/2023 appeal from the permanent injunction. FURTHER ORDERED: Staying this appeal pending further order of the court. FURTHER ORDERED: Within 5 days after this court assigns a case number to the appeal arising from the 10/04/2023 notice of appeal, appellant shall file a notice in this appeal indicating the new case number. Upon receipt of the notice, the court will set a briefing schedule for the permanent injunction appeal. FURTHER ORDERED: Denying the request for expedited briefing without prejudice to the parties filing briefs as quickly as they wish before the due dates. Hon Randall M Howe - Author
35. 8-Nov-2023 FILED: Notice of New Case Number Pursuant to Court's Order Granting Case Consolidation; Certificate of Service (Appellant)
36. 8-Nov-2023 FILED: Notice of Filing Transcripts; Certificate of Service; Reporter's Transcript - 07/10/2023 - Trial Day 1 - Bench Trial (Kristine Mayo); Reporter's Transcript - 07/11/2023 - Bench Trial (Michele Kaley) (Appellant)
37. 9-Nov-2023 ORDERED: Notice of New Case Number Pursuant to Court's Order Granting Case Consolidation (Appellant) = Lifting the stay of appeal 1 CA-CV 23-0273. FURTHER ORDERED: Consolidating cases 1 CA-CV 23-0273 and 1 CA-CV 23-0689. Case no. 1 CA-CV 23-0273 is designated the primary number, and the above caption must be used on all future documents filed in this appeal. FURTHER ORDERED: Appellees' filing fee of \$140.00 for appeal 1 CA-CV 23-0689, payable to the clerk of the court, is due on 11/17/2023. FURTHER ORDERED: The opening brief pertaining to appeal 1 CA-CV 23-0689 is due on 01/02/2024. Melina Brill ProTem Judge - Author
38. 9-Nov-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
39. 15-Nov-2023 FILED: Notice of Paying Filing Fee (for CV 23-0689); Certificate of Service (Appellee)
40. 22-Nov-2023 FILED: Case Management Statement; Copy of Maricopa County Superior Court ME dated 10/03/2023 re: Under Advisement Ruling; Copy of Maricopa County Superior Court Order dated 11/19/2023 re: Judgment (Appellant)
41. 22-Dec-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
42. 2-Jan-2024 FILED: Opening Brief of Defendant/Appellant (for 1 CA-CV 23-0689); Certificate of Compliance; Certificate of Service (Appellant)
43. 2-Jan-2024 FILED: Appendix (to Opening Brief of Defendant/Appellant (for 1 CA-CV 23-0689)) (Appellant)
44. 9-Feb-2024 FILED: Answering Brief of Plaintiffs-Appellees (for 1 CA-CV 23-0689); Certificate of Compliance; Certificate of Service (Appellee)

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0273****BROWN, et al. v. PHOENIX****67 PROCEEDING ENTRIES**

45.	27-Feb-2024	FILED: Appellant City of Phoenix's Unopposed Motion for Procedural Order to Extend Time to File Reply Brief (for 1 CA-CV 23-0689); Certificate of Service (Appellant)
46.	27-Feb-2024	ORDERED: Appellant City of Phoenix's Unopposed Motion for Procedural Order to Extend Time to File Reply Brief (for 1 CA-CV 23-0689) (Appellant) = GRANTED. Due date EXTENDED from Thursday, 02-29-2024 to Tuesday, 03-05-2024. Melina Brill ProTem Judge - Author
47.	5-Mar-2024	FILED: Reply Brief of Defendant/Appellant (for 1 CA-CV 23-0689); Certificate of Compliance; Certificate of Service (Appellant)
48.	15-Mar-2024	FILED: Request for Oral Argument; Certificate of Service (Appellee)
49.	27-Mar-2024	ORDERED: Request for Oral Argument (Appellee) = GRANTED. Hon David B Gass - Author
50.	4-Apr-2024	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
51.	15-Apr-2024	FILED: Supplemented Superior Court e-Record with Revised Index of Record
52.	26-Apr-2024	CLNDR: MONTHLY COURT CASE CALENDAR, Department D, 6-5-24, 10:15 am, COURTROOM 2.
53.	26-Apr-2024	FILED: Notice of Oral Argument
54.	8-May-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Ilan Wurman on 04/26/2024 (Appellee)
55.	24-May-2024	FILED: Appellees' Rule 17 Supplemental Citation to Legal Authority; Certificate of Service (Appellee)
56.	28-May-2024	FILED: Return Receipt Re Oral Argument, signed by Trish Stuhan, on 4/26/24; Certificate of Service (Appellant)
57.	29-May-2024	ORDERED: Directing the parties to raise any objection they may have to this Request (Request to Broadcast, Record, or Photograph) in writing provided to the court no later than 5:00 p.m. on 06/04/2024. If no objection is raised, the Request will be granted. Hon Samuel A Thumma - Author
58.	5-Jun-2024	FILED: Sign-in Sheet/Case is Under Advisement as of 06/05/2024
59.	28-Jun-2024	FILED: Appellees' (Second) Rule 17 Supplemental Citation to Legal Authority; Certificate of Service (Appellee)
60.	2-Jul-2024	FILED: Appellant's Supplemental Citation Of Legal Authority; Certificate of Service; Exhibit 1 - Supreme Court Opinion (Appellant)
61.	24-Jul-2024	FILED: Appellant's Second Supplemental Citation of Legal Authority; Certificate of Service; Memorandum Decision (Appellant)
62.	25-Jul-2024	FILED: Appellees' Response to Appellant's Second Supplemental Rule 17 Letter; Certificate of Service (Appellees)
63.	27-Aug-2024	OPINION (Affirmed as Clarified) Hon Samuel A Thumma - Author; Hon Jennifer B Campbell - Concur; Hon Michael J Brown - Concur
64.	27-Aug-2024	FILED: Decision Distribution Notification
65.	30-Aug-2024	FILED: Plaintiffs' Application for Reasonable Attorneys' Fees and Taxable Costs on Appeal; Certificate of Service; Declaration of Ilan Wurman in Support of Plaintiffs' Application for Attorneys' Fees and Costs on Appeal (Appellees)
66.	5-Sep-2024	FILED: Appellant's Uncontested Motion to Extend Filing Deadline (Response to Attorneys' Fees and Costs); Certificate of Service; Order (Proposed) (Appellant)
67.	6-Sep-2024	ORDERED: Appellant's Uncontested Motion to Extend Filing Deadline (Response to Attorneys' Fees and Costs) (Appellant) = GRANTED such that Appellant shall have up to and including 09/16/2024 in which to file any such objection. Hon Samuel A Thumma - Author