

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0327

BROWN & BROWN v. NEW, et al.

Appellate Case Information

Case Filed: 9-Jun-2023

Case Closed:

Dept/Composition

Department C

Hon. Paul J McMurdie
Hon. Maria Elena Cruz
Hon. Cynthia J Bailey

Side 1. BROWN & BROWN INSURANCE OF ARIZONA, INC., Plaintiff/Appellee
(Litigant Group) BROWN & BROWN INSURANCE OF ARIZONA, INC.

- Brown & Brown Insurance of Arizona Inc

Attorneys for: Plaintiff/Appellee

Brian A Cabianca, Esq. (AZ Bar No. 16410)
David Sean Norris, Esq. (AZ Bar No. 34309)
Kaitlyn Hertzog, Esq. (AZ Bar No. 36181)

Side 2. MARK NEW, et al., Defendant/Appellant
(Litigant Group) MARK NEW, et al.

- Mark New
Lorna J New
Zachary Hope
Jenna J Hope

Attorneys for: Defendant/Appellant

James E Vieh, Esq. (AZ Bar No. 4764)

CASE STATUS

Apr 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, CV2019-014651, Breach of Contract, Sara J Agne, Authoring Judge of Order.

DESCENDENT CASE(S)

ASC CV-24-0069-PR

CASE DECISION

05-Mar-2024 MEMORANDUM DECISION

Maria Cruz.....Author
Paul McMurdie.....Concur
Cynthia Bailey.....Concur

Filed: 05-Mar-2024 Mandate:

Decision Disposition

Affirmed

51 PROCEEDING ENTRIES

- 1. 9-Jun-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/10/23
2. 9-Jun-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: Hearing Date 9/10/20 2, 4, 5, 7, 8, 13, 17, 25, 26, 29, 33, 39, 42, 43, 57, 69, 73 Hearing Date 5/6/21 2, 3, 4, 7, 25, 32, 33, 55, 59, 60, 62, 65, 68
Digital Exhibits; Plaintiff Hearing Date 10/6/22 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 19, 21, 22, 23, 24, 28, 32, 33, 35, 38, 39, 40, 41, 43, 45, 48, 49, 53, 55, 61, 64, 68, 70, 71, 73, 75, 77, 78, 79, 80, 81, 82, 83, 87, 88, 89, 90, 91, 92, 97, 98, 99, 102, 107, 110, 111, 112, 113, 114, 115, 117, 118, 120, 121, 122, 123, 126, 128, 129, 132, 133, 134, 135, 136, 138, 140, 141, 142, 143, 144, 147, 148, 151, 156, 157, 158, 161, 185, 186, 187, 190, 191, 192, 193, 199, 200, 201, 202, 203 Defendant Hearing Date 10/11/22 #2
3. 9-Jun-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 9-Jun-2023 FILED: Additional Record on Appeal: Physical Exhibits: Hearing Date 05/06/2021 - List # 40 42 43 44 45 46 In Manila Envelope
5. 14-Jun-2023 FILED: Notice of Filing Appellants' Filing Fee; Appellants' Certificate of Service (Appellant)

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0327****BROWN & BROWN v. NEW, et al.****51 PROCEEDING ENTRIES**

6.	14-Jun-2023	FILED: Appellants' Notice of Transcript Order; Appellants' Certificate of Service (Appellant)
7.	21-Jun-2023	RECEIPT No.: 2023-00551 ; \$280.00, Authorization: #72014046156, Applied to: MARK NEW, et al. - Class A Filing Fee (\$280.00) Paid for: Law Offices of James E Vieh PLC - By nCourt LLC
8.	21-Jun-2023	FILED: Case Management Statement; Appellants' Certificate of Service (Appellant)
9.	23-Jun-2023	FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief Due
10.	28-Jun-2023	FILED: Appellee's Notice of Payment of Filing Fee; Certificate of Service (Appellee)
11.	3-Jul-2023	RECEIPT No.: 2023-00590 ; \$140.00, Authorization: #84009267470, Applied to: BROWN & BROWN INSURANCE OF ARIZONA, INC. - Class B Filing Fee (\$140.00) Paid for: Squire Patton Boggs (US) LLP - By nCourt LLC
12.	14-Jul-2023	FILED: Reporter's Transcript - 10/18/2022 - Bench Trial - Day 2 (Kim Claeys) (Appellant)
13.	14-Jul-2023	FILED: Reporter's Transcript - 10/17/2022 - Bench Trial - Day 1 (Meagan Murphy) (Appellant)
14.	14-Jul-2023	FILED: Reporter's Transcript - 09/10/2020 - Evidentiary Hearing (Alexander Reaves) (Appellant)
15.	14-Jul-2023	FILED: Reporter's Transcript - 10/19/2022 - Bench Trial - Day 3 (Shannon Romo) (Appellant)
16.	14-Jul-2023	FILED: Reporter's Transcript - 05/06/2021 - Evidentiary Hearing (John Buckley) (Appellant)
17.	14-Jul-2023	FILED: Reporter's Transcript - 10/20/2022 - Bench Trial - Day 4 (Leda Yeager) (Appellant)
18.	14-Jul-2023	FILED: Reporter's Transcript - 10/24/2022 - Bench Trial - Day 5 (Deanne Ridge) (Appellant)
19.	14-Jul-2023	FILED: Notice of Filing and Service of Transcript (Notice of Filing and Service of Transcript dated 09/10/2020); Certificate of Service (Appellant)
20.	14-Jul-2023	FILED: Notice of Filing and Service of Transcript (Notice of Filing and Service of Transcript dated 05/06/2021); Certificate of Service (Appellant)
21.	14-Jul-2023	FILED: Notice of Filing and Service of Transcript (Notice of Filing and Service of Transcript dated 10/17/2022); Certificate of Service (Appellant)
22.	7-Aug-2023	FILED: Appellants' Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
23.	7-Aug-2023	FILED: Appendix to Appellants' Opening Brief (Appellant)
24.	11-Sep-2023	FILED: Unopposed Motion for Procedural Order to Extend Deadline to File Answering Brief; Certificate of Service (Appellee)
25.	12-Sep-2023	ORDERED: Unopposed Motion for Procedural Order to Extend Deadline to File Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Monday, 09-18-2023 to Monday, 10-02-2023. 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
26.	12-Sep-2023	FILED: Defendants/Appellants' Objection to Plaintiff/Appellee's "Unopposed Motion" for Procedural Order to Extend Deadline to File Answering Brief; Appellant's Certificate of Service (Appellants)
27.	12-Sep-2023	FILED: Response to Appellants' Objection to Brown & Brown's Unopposed Motion for Procedural Order to Extend Deadline to File Answering Brief; Certificate of Service (Appellee)
28.	14-Sep-2023	ORDERED: Affirming the court's 09/12/2023 order extending the time to file the answering brief until 10/02/2023. FURTHER ORDERED: Defendants/Appellants' Objection to Plaintiff/Appellee's "Unopposed Motion" for Procedural Order to Extend Deadline to File Answering Brief (Appellants) = DENIED without prejudice to the filing of a motion setting forth good cause for an extension after the due date for the reply brief is set. Hon David B Gass - Author
29.	2-Oct-2023	FILED: Brown & Brown Insurance of Arizona, Inc.'s Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
30.	2-Oct-2023	FILED: Appendix to Brown & Brown Insurance of Arizona, Inc.'s Answering Brief (Appellee)
31.	3-Oct-2023	FILED: Defendants/Appellants' Unopposed Motion for Procedural Order to Extend Deadline to File Reply Brief; Certificate of Service (Appellants)
32.	3-Oct-2023	ORDERED: Defendants/Appellants' Unopposed Motion for Procedural Order to Extend Deadline to File Reply Brief (Appellants) = GRANTED. Due date EXTENDED from Monday, 10-23-2023 to Friday, 11-03-2023. If the brief is not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
33.	3-Nov-2023	FILED: Appellants' Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)

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51 PROCEEDING ENTRIES

34. 3-Nov-2023 FILED: Appendix to Appellants' Reply Brief (Appellant)
35. 7-Nov-2023 FILED: Appellants' Request for Oral Argument; Certificate of Service (Appellants)
36. 15-Nov-2023 ORDERED: Appellants' Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
37. 28-Nov-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
38. 8-Dec-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
39. 21-Dec-2023 CLNDR: MONTHLY COURT CASE CALENDAR, Department C, 2-14-24, 09:30 am, COURTROOM 1.
40. 29-Dec-2023 FILED: Notice of Oral Argument
41. 11-Jan-2024 FILED: Return Receipt for Notice of Oral Argument, signed by James Vieh on 01/02/2024 (Appellant)
42. 23-Jan-2024 FILED: Return Receipt for Notice of Oral Argument, signed by David Norris on 12/29/2023 (Appellee)
43. 14-Feb-2024 FILED: Sign-in Sheet/Case is Under Advisement as of 02/14/2024
44. 5-Mar-2024 MEMORANDUM DECISION (Affirmed) Hon Maria Elena Cruz - Author; Hon Paul J McMurdie - Concur; Hon Cynthia J Bailey - Concur
45. 5-Mar-2024 FILED: Decision Distribution Notification
46. 19-Mar-2024 FILED: Brown & Brown Insurance of Arizona, Inc.'s Application for Attorneys' Fees and Costs; Certificate of Service (Appellee)
47. 28-Mar-2024 FILED: Appellants' Objection to Brown & Brown Insurance of Arizona's Application for Attorney's Fees and Costs; Appellants' Certificate of Service (Appellant)
48. 4-Apr-2024 FILED: Brown & Brown Insurance of Arizona, Inc.'s Reply in Support of its Application for Attorneys' Fees and Costs; Certificate of Service (Appellee)
49. 5-Apr-2024 FILED: Email Notice from ASC re: Petition for Review filed 4/3/24; request for partial record
50. 5-Apr-2024 FILED: Letter forwarding partial record to Arizona Supreme Court
51. 17-Apr-2024 ORDERED: Brown & Brown Insurance of Arizona, Inc.'s Application for Attorneys' Fees and Costs (Appellee) = GRANTED in the amount of \$197.25 in costs and \$72,647.00 in fees. Hon Maria Elena Cruz - Author