

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0375

GALLERY v. K HOVNANIAN, et al.

Appellate Case Information

Case Filed: 23-Jun-2023

Case Closed:

Dept/Composition

Department B

Hon. Andrew M Jacobs
Hon. Jennifer M Perkins
Hon. David D Weinzweig

Side 1. GALLERY COMMUNITY ASSOCIATION, Plaintiff/Appellant

(Litigant Group) GALLERY COMMUNITY ASSOCIATION

- Gallery Community Association

Attorneys for: Plaintiff/Appellant

Craig S Nuss, Esq. (OH Bar No. 33839)
Robert G Schaffer, Esq. (AZ Bar No. 17475)
Roger E Brodman, Esq. (AZ Bar No. 10170)

Side 2. K HOVNANIAN AT GALLERY, LLC, et al., Defendant/Appellee

(Litigant Group) K HOVNANIAN AT GALLERY, LLC, et al.

- K Hovnanian at Gallery LLC
K Hovnanian Arizona Operations LLC
K Hovnanian Developments of Arizona Inc
K Hovnanian Companies of Arizona LLC

Co-Counsel for: Defendants/Appellees K Hovnanian

Dennis I Wilenchik, Esq. (AZ Bar No. 5350)
Louis W Horowitz, Esq. (AZ Bar No. 20842)

(Litigant Group) LE BLANC BUILDING CO, INC.

- Le Blanc Building Co Inc

Attorneys for: Defendant/Appellee LeBlanc

Michael A Ludwig, Esq. (AZ Bar No. 15481)

(Litigant Group) LIBERTY CONSTRUCTORS

- Liberty Constructors

Attorneys for: Defendant/Appellee Liberty

Thomas J Shorall, Jr, Esq. (AZ Bar No. 10456)
Jason J Boblick, Esq. (AZ Bar No. 26507)

(Litigant Group) RENCO ROOFING AND DESERT VISTA, INC.

- Renco Roofing and Desert Vista Inc

Attorneys for: Defendant/Appellee Renco

Rina K Rai, Esq. (AZ Bar No. 18886)
Mohamad H Tokko, Esq. (AZ Bar No. 33015)

(Litigant Group) SARGON MASONRY CONSTRUCTION, LLC

- Sargon Masonry Construction LLC

Attorneys for: Defendant/Appellee Sargon

Leonard T Fink, Esq. (AZ Bar No. 16489)
David S Schopick, Esq. (AZ Bar No. 22016)

Side 3. AIRE ON MCDOWELL COMMUNITY ASSOCIATION, Amicus Curiae

(Litigant Group) AIRE ON MCDOWELL COMMUNITY ASSOCIATION

- Aire on McDowell Community Association

Attorneys for: Amicus Curiae Aire

Thomas L Hudson, Esq. (AZ Bar No. 14485)
John S. Bullock, Esq. (AZ Bar No. 34950)

CASE STATUS

Aug 21, 2024...Motion for Reconsideration Pending

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2020-008714, Negligence, Katherine Cooper, Authoring Judge of Order.

PENDING MATTER

General Motion

Appellees' Motion for Reconsideration (Appellees K Hovnanian)

Filed: 21-Aug-2024

Court of Appeals, Division One

Civil Appeal

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CASE DECISION

06-Aug-2024 OPINION

Andrew Jacobs.....Author
Jennifer Perkins.....Concur
David Weinzwieg.....Concur

Filed: 06-Aug-2024 Mandate:

Table with 1 row: Decision Disposition. Content: Vacated Remanded

50 PROCEEDING ENTRIES

- 1. 23-Jun-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/26/23
2. 23-Jun-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3. 23-Jun-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 28-Jun-2023 FILED: Certificate of Compliance Re: Service of Transcripts (Notice of Service of Transcripts); Certificate of Compliance Re: Service of Transcripts (Appellant)
5. 28-Jun-2023 FILED: Reporter's Transcript - 01/13/2023 - Motion Hearing (Joanna Sargent) (Appellant)
6. 28-Jun-2023 FILED: Reporter's Transcript - 04/27/2021 - Status Conference (Cathy Kleinbart) (Appellant)
7. 29-Jun-2023 FILED: Notice of Association of Counsel; Certificate of Service of Notice of Association of Counsel (Appellant)
8. 5-Jul-2023 RECEIPT No.: 2023-00597 ; \$280.00, Authorization: #86016000254, Applied to: GALLERY COMMUNITY ASSOCIATION - Class A Filing Fee (\$280.00) Paid for: Penny J Manship - By nCourt LLC
9. 7-Jul-2023 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
10. 13-Jul-2023 FILED: Case Management Statement (Appellant)
11. 20-Jul-2023 FILED: Appellees K. Hovnanian at Gallery, LLC and K. Hovnanian Arizona Operations, LLC's Notice of Payment of Filing Fee; Certificate of Service (Appellee K. Hovnanian)
12. 26-Jul-2023 RECEIPT No.: 2023-00681 ; \$140.00, Authorization: #07007343429, Applied to: K HOVNANIAN AT GALLERY, LLC, et al. - Class B Filing Fee (\$140.00) Paid for: Lorber Greenfield & Polito LLP - By nCourt LLC
13. 14-Aug-2023 FILED: Motion for Procedural Order re Extension of Time to File Opening Brief; Certificate of Service of Motion for Procedural Order re Extension of Time to File Opening Brief (Appellant)
14. 14-Aug-2023 ORDERED: Motion for Procedural Order re Extension of Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 08-22-2023 to Friday, 09-22-2023. If brief is not timely filed, court will dismiss this appeal. Melina Brill ProTem Judge - Author
15. 18-Sep-2023 FILED: Notice of Disassociation and Withdrawal of Counsel; Certificate of Service of Notice of Disassociation and Withdrawal of Counsel (Appellant)
16. 22-Sep-2023 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant) [Substituted for opening brief from 9/22/23 per order filed 10/12/23]
17. 22-Sep-2023 FILED: Appendix to Opening Brief (Appellant)
18. 26-Sep-2023 FILED: Motion for Leave to File Amended Opening Brief; Certificate of Service of Motion for Leave to File Amended Opening Brief (Appellant)
19. 26-Sep-2023 FILED: Request for Oral Argument; Certificate of Service of Motion for Leave to File Amended Opening Brief (Oral Argument) (Appellant)
20. 26-Sep-2023 FILED: Appellant's Amended Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
21. 2-Oct-2023 FILED: Request for Oral Argument; Certificate of Service for Request for Oral Argument (Appellant)
22. 12-Oct-2023 ORDERED: Motion for Leave to File Amended Opening Brief (Appellant) = GRANTED and accepting the opening brief filed on 09/26/2023, in place of the brief filed on 09/22/2023. FURTHER ORDERED: The answering briefs are due on 11/06/2023. Melina Brill ProTem Judge - Author

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0375****GALLERY v. K HOVNANIAN, et al.****50 PROCEEDING ENTRIES**

23. 25-Oct-2023 FILED: Motion for Procedural Order Re: Extension of Time to File Defendants/Appellees' Answer Brief; Certificate of Service (Appellee K.Hovnanian)
24. 26-Oct-2023 ORDERED: Motion for Procedural Order Re: Extension of Time to File Defendants/Appellees' Answer Brief (Appellee K. Hovnanian) = GRANTED. Due dates (for all answering briefs) EXTENDED from Monday, 11-06-2023 to Friday, 12-01-2023. If the briefs are not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
25. 1-Dec-2023 FILED: Appellees' Answering Brief; Certificate of Compliance Re Appellees' Answering Brief; Certificate of Service of Appellees' Answering Brief (Appellee Hovnanian)
26. 1-Dec-2023 FILED: Appendix to Appellees' Answering Brief; Certificate of Service of Appendix to Appellees' Answering Brief (Appellee Hovnanian)
27. 18-Dec-2023 FILED: Motion for Procedural Order Re Extension of Time to File Reply Brief; Certificate of Service of Motion for Procedural Order Re Extension of Time to File Reply Brief (Appellant)
28. 18-Dec-2023 ORDERED: Motion for Procedural Order Re Extension of Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Thursday, 12-21-2023 to Thursday, 01-04-2024. 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
29. 4-Jan-2024 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
30. 19-Jan-2024 FILED: Request for Oral Argument; Certificate of Service of Request for Oral Argument (Appellee K Hovnanian)
31. 24-Jan-2024 FILED: Brief of Amicus Curiae Aire on McDowell Community Assoc. Supporting Gallery Community Association and Appendix; Certificate of Compliance; Certificate of Service (Amicus Curiae Aire on McDowell Community Association)
32. 24-Jan-2024 FILED: Aire on McDowell Community Association's Motion for Leave to File Amicus Brief; Certificate of Service (Amicus Curiae)
33. 30-Jan-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
34. 7-Feb-2024 FILED: Appellees' Response to Aire on McDowell Community Association's Motion for Leave to File Amicus Brief; Certificate of Service (Appellee K Hovnanian)
35. 9-Feb-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
36. 14-Feb-2024 ORDERED: Request for Oral Argument (Appellant) = GRANTED. FURTHER ORDERED: Request for Oral Argument (Appellant) = GRANTED. FURTHER ORDERED: Request for Oral Argument (Appellee K Hovnanian) = GRANTED. Hon David B Gass - Author
37. 16-Feb-2024 ORDERED: Aire on McDowell Community Association's Motion for Leave to File Amicus Brief (Amicus Curiae) = GRANTED and accepting the amicus curiae brief of Aire on McDowell Community Association filed on 01/24/2024. FURTHER ORDERED: Any party may file a response to the brief by 03/07/2024. Hon David B Gass - Author
38. 26-Feb-2024 CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 4-23-24, 10:00 am, COURTROOM 2.
39. 26-Feb-2024 FILED: Notice of Oral Argument
40. 27-Feb-2024 FILED: Return Receipt Re Oral Argument, signed by Robert Schaffer, on 2/27/24 (Appellant)
41. 7-Mar-2024 FILED: Appellees' Response to Amicus Brief; Certificate of Compliance regarding Appellees' Response to Amicus Brief; Certificate of Service of Appellees' Response to Amicus Brief (Appellee K Hovnanian)
42. 26-Mar-2024 ORDERED: Any response to the motion to consolidate oral arguments (in 1 CA-CV 23-0747) be filed by 04/01/2024. Hon David B Gass - Author
43. 1-Apr-2024 FILED: Appellant's Objection to Order re: Motion to Consolidate Oral Arguments; Certificate of Service (Appellant)
44. 2-Apr-2024 ORDERED: Appellant's Objection to Order re: Motion to Consolidate Oral Arguments (Appellant) = Affirming oral argument in this appeal scheduled for 04/23/2024. Hon Andrew M Jacobs - Author
45. 15-Apr-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Dennis Wilenchik on 02/26/2024 (Appellee K Hovnanian)
46. 23-Apr-2024 FILED: Sign-in Sheet/Case is Under Advisement as of 04/23/2024
47. 6-Aug-2024 OPINION (Vacated, Remanded) Hon Andrew M Jacobs - Author; Hon Jennifer M Perkins - Concur; Hon David D Weinzwieg - Concur
48. 6-Aug-2024 FILED: Decision Distribution Notification

Court of Appeals, Division One

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50 PROCEEDING ENTRIES

- 49. 21-Aug-2024 FILED: Appellees' Motion for Reconsideration; Certificate of Compliance Regarding Appellee's [sic] Motion for Reconsideration; Certificate of Service of Appellees' Motion for Reconsideration (Appellees K Hovnanian)
- 50. 21-Aug-2024 FILED: Notice of Firm Name Change; Certificate of Service (Appellee K Hovnanian)