

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0423

ELI v. PROCACCIANTI, et al.

Appellate Case Information

Case Filed: 10-Jul-2023

Case Closed:

Dept/Composition

Department E

Hon. Anni Hill Foster
Hon. Brian Y Furuya
Hon. Randall M Howe

Side 1. ZADOK ELI, et al., Plaintiff/Appellant

(Litigant Group) ZADOK ELI, et al.

- Zadok Eli PRO SE
Hana Eli PRO SE

(Litigant Group) COLLEEN LONDON, et al.(1 CA-CV 23-0424, 1 CA-CV 23-0425) Dismissed per order filed 01/04/2024

Side 2. PROCACCIANTI AZ II, LP, et al., Defendant/Appellee

(Litigant Group) PROCACCIANTI AZ II LP

- Procaccianti AZ II LP
Attorneys for: Defendant/Appellee Procaccianti
Andrew M Federhar, Esq. (AZ Bar No. 6567)
Jessica Anne Gale, Esq. (AZ Bar No. 30583)

(Litigant Group) HILTON CASITAS CONSEL OF HOMEOWNERS

- Hilton Casitas Council of Homeowners
Attorneys for: Defendant/Appellee Hilton
R Corey Hill, Esq. (AZ Bar No. 12188)
Ginette M Hill, Esq. (AZ Bar No. 18272)
Christopher Robbins, Esq. (AZ Bar No. 11064)

CASE STATUS

Jul 23, 2024.....Motion for Reconsideration Pending

Table with 6 columns: PREDECESSOR CASE (S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Includes rows for MAR CV2012-000363 and MAR CV2012-051066.

3 PENDING MATTERS

General Motion Filed: 19-Jul-2024
* Defendant/Appellee Procaccianti AZ II L.P.'s Statement of COSTS (Appellee Procaccianti)

General Motion Filed: 19-Jul-2024
* Defendant/Appellee Procaccianti AZ II L.P.'s Application for Attorneys' FEES and Costs (Appellee Procaccianti)

General Motion Filed: 23-Jul-2024
Appellants' Motion for Reconsideration (Appellants Pro Per)

CASE DECISION

09-Jul-2024 MEMORANDUM DECISION

Randall Howe.....Author
Anni Foster.....Concur
Brian Furuya.....Concur

Filed: 09-Jul-2024 Mandate:

Table with 1 row and 1 column: Decision Disposition Affirmed

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1. 10-Jul-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 06/09/23

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2. 10-Jul-2023 FILED: e-Record on Appeal: (CV2012-051066)
Instruments/Minute Entries
Exhibits: None sent with e-Record
3. 10-Jul-2023 FILED: Additional Record on Appeal:
Physical Exhibits: Hearing Date 2/1/16 List and # 1, 2, 4, 5, 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19.001, 20, 21, 22, 25, 26, 27, 28, 37, 39, 42, 43, 51, 55, 57, 59, 61, 64, 68, 72, 76, 77, 78, 79, 82, 89, 93 in Manila Envelope
4. 10-Jul-2023 FILED: e-Record on Appeal: (CV2012-000363)
Instruments/Minute Entries
Exhibits: None sent with e-Record
5. 10-Jul-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
6. 24-Jul-2023 RECEIPT No.: 2023-00669 ; \$280.00 Applied to: ZADOK ELI, et al. - Class A Filing Fee (\$280.00) Paid for: ZADOK ELI, et al. - By
7. 31-Jul-2023 FILED: Case Management Statement (Appellants Pro Per)
8. 31-Jul-2023 FILED: Appellate Clerk Notice re: Appellee's Fees; Appellant's Brief Due
9. 4-Aug-2023 FILED: Appellee Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee; Certificate of Service of Appellee Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee (Appellee Procaccianti)
10. 7-Aug-2023 FILED: Notice of Appellee's Filing Fee for Hilton Casitas Council of Homeowners; Certificate of Service (Appellee Hilton)
11. 9-Aug-2023 ORDERED: Procaccianti AZ II, L.P.'s Notice and Request to Add Procaccianti AZ II, L.P. as an Appellee (Intervenor) = GRANTED and adding Procaccianti AZ II, L.P. as an appellee to appeals 1 CA-CV 23-0424 and 1 CA-CV 23-0425. FURTHER ORDERED: Consolidating cases 1 CA-CV 23-0423, 1 CA-CV 23-0424, and 1 CA-CV 23-0425. Case no. 1 CA-CV 23-0423 is designated the primary number, and the above caption must be used on all future documents filed in this appeal. FURTHER ORDERED: The opening briefs are due on 09/08/2023. If the briefs are not timely filed, the court will dismiss this consolidated appeal. Hon David B Gass - Author
12. 9-Aug-2023 FILED: Appellants' ARCAP Rule 3(b) Motion to Suspend Appeals to Revest Jurisdiction in the Superior Court (Appellants Pro Per)
13. 10-Aug-2023 RECEIPT No.: 2023-00738 ; \$140.00, Authorization: # 22009013503, Applied to: PROCACCIANTI AZ II LP - Class B Filing Fee (\$140.00) Paid for: Spencer Fane LLP - By nCourt LLC
14. 11-Aug-2023 RECEIPT No.: 2023-00748 ; \$140.00, Authorization: #23007466362, Applied to: HILTON CASITAS CONSEL OF HOMEOWNERS - Class B Filing Fee (\$140.00) Paid for: Hill Hall & DeCiancio PLC - By nCourt LLC
15. 16-Aug-2023 FILED: Appellee Procaccianti Az II, L.P.'s Response to Appellants' ARCAP Rule 3(B) Motion to Suspend Appeals to Revest Jurisdiction in the Superior Court; Certificate of Service of Appellee Procaccianti Az II, L.P.'s Response to Appellants' ARCAP Rule 3(B) Motion to Suspend Appeals to Revest Jurisdiction in the Superior Court (Appellee Procaccianti)
16. 16-Aug-2023 FILED: Hilton Casitas's [sic] Joinder in Procaccianti's Response to Plaintiff Homeowners' Rule 3(B) Motion and Hilton Casitas's [sic] Supplemental Response; Certificate of Service (Appellee Hilton)
17. 23-Aug-2023 FILED: Reply in Support of Appellants' ARCAP Rule 3(b) Motion to Suspend Appeals to Revest Jurisdiction in the Superior Court (Appellees)
18. 31-Aug-2023 ORDERED: Appellants' ARCAP Rule 3(b) Motion to Suspend Appeals to Revest Jurisdiction in the Superior Court (Appellants Pro Per) = GRANTED and, pursuant to Arizona Rule of Civil Appellate Procedure 3(b), staying this appeal until 10/16/2023. FURTHER ORDERED: The opening brief is due on 11/15/2023. Hon Randall M Howe - Author
19. 11-Oct-2023 FILED: Motion to Continue the Stay of this Appeal (Appellant Pro Per)
20. 13-Oct-2023 FILED: Appellee Procaccianti AZ II, L.P.'s Response to Appellants' Motion to Continue the Stay of Appeal; Appellee Procaccianti AZ II, L.P.'s Certificate of Service of Response to Appellants' Motion to Continue the Stay of Appeal (Appellee)
21. 13-Oct-2023 FILED: Motion to Continue the Stay of this Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per)
22. 16-Oct-2023 FILED: Reply in Support of the Motion to Continue the Stay of this Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per)
23. 17-Oct-2023 FILED: Appellee Procaccianti Az II, L.P.'s Response to Appellants' Motion to Continue the Stay of Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion; Appellee Procaccianti Az II, L.P.'s Certificate of Service of Response to Appellants' Motion to Continue the Stay of Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion (Appellee)

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24. 18-Oct-2023 FILED: Reply in Support of Appellant/Plaintiffs' October 13, 2023 Motion to Continue the Stay of this Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion (Appellants Pro Per)
25. 23-Oct-2023 FILED: Notice of Ruling in the Superior Court (Appellant Pro Per)
26. 24-Oct-2023 FILED: Notice of Joinder in Procaccianti's Response to Plaintiffs' Motion to Continue Stay of Appeal Filed on 10/13/23; Certificate of Service (Appellee)
27. 27-Oct-2023 ORDERED: Motion to Continue the Stay of this Appeal (Appellant Pro Per) = DENIED as moot. FURTHER ORDERED: Motion to Continue the Stay of this Appeal to Allow the Superior Court to Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per) = GRANTED and continuing the stay of this appeal until 11/28/2023. FURTHER ORDERED: The opening brief is due on 12/28/2023. Hon David B Gass - Author
28. 15-Nov-2023 FILED: Motion to Continue the Stay of This Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per)
29. 22-Nov-2023 FILED: Appellee Procaccianti AZ II, L.P.'s Response to Appellants' Motion to Continue the Stay of This Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion; Appellee Procaccianti AZ II, L.P.'s Certificate of Service of Response to Appellants' Motion to Continue the Stay of This Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellee)
30. 28-Nov-2023 ORDERED: Motion to Continue the Stay of This Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per) = GRANTED and continuing the stay of this appeal until 12/28/2023, for the purposes set forth in this court's 10/27/2023 order. FURTHER ORDERED: The opening brief is due on 01/29/2024. Melina Brill ProTem Judge - Author
31. 15-Dec-2023 FILED: Motion to Continue the Stay of this Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per)
32. 21-Dec-2023 FILED: Appellee Procaccianti Az II, L.P.'s Response to Appellants' Motion to Continue the Stay of This Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion; Appellee Procaccianti Az II, L.P.'s Certificate of Service of Response to Appellants' Motion to Continue the Stay of Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellee Procaccti)
33. 22-Dec-2023 FILED: Notice of Appellants' Abandonment of 1 CA CV 23-0424 and 1 CA-CV 23-0425 (Appellants Pro Per)
34. 22-Dec-2023 FILED: Notice of Ruling in the Superior Court (Appellants Pro Per)
35. 22-Dec-2023 FILED: Appellee Procaccianti AZ II, L.P.'s Notice of Superior Court Order and Request for The Court to Set a Briefing Schedule; Appellee Procaccianti AZ II, L.P.'s Certificate of Service of Notice of Superior Court Order and Request for The Court to Set a Briefing Schedule (Appellee Procaccianti)
36. 26-Dec-2023 FILED: Courtesy Copy - Maricopa County Superior Court Minute Entry dated 12/21/2023 (filed 12/22/2023) Re: Order denying Motion for New Trial and taking no action for lack of jurisdiction on other pending requests
37. 4-Jan-2024 ORDERED: Notice of Appellants' Abandonment of 1 CA CV 23-0424 and 1 CA-CV 23-0425 (Appellants Pro Per) = Deconsolidating appeals 1 CA-CV 23-0424 and 1 CA-CV 23-0425 from appeal 1 CA-CV 23-0423. FURTHER ORDERED amending the caption and docket in this appeal by removing appeals 1 CA-CV 23-0424 and 1 CA-CV 23-0425 and dismissing appellants R.L. Whitmer and Colleen London. The caption shown on this order shall be used on all future documents filed in this appeal. FURTHER ORDERED: Motion to Continue the Stay of this Appeal to Allow the Superior Court to Fully Consider Plaintiffs' Rule 59 Motion (Appellant Pro Per) = DENIED. The opening brief is due on 02/05/2024. If the brief is not timely filed, the court will dismiss this appeal. FURTHER ORDERED directing the clerk of this court to file this order in appeals 1 CA-CV 23-0424 and 1 CA-CV 23-0425. Melina Brill ProTem Judge - Author
38. 26-Jan-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
39. 5-Feb-2024 FILED: Appellant's Opening Brief (Appellants Pro Per)
40. 5-Feb-2024 FILED: Opening Brief Appendix (Appellants Pro Per)
41. 20-Feb-2024 FILED: Appellee Procaccianti AZ II, L.P.'s Answering Brief; Certificate of Compliance of Appellee Procaccianti AZ II, L.P.'s Answering Brief; Certificate of Service of Appellee Procaccianti AZ II, L.P.'s Answering Brief (Appellee Procaccianti)
42. 20-Feb-2024 FILED: Appendix to Appellee Procaccianti AZ II, L.P.'s Answering Brief; Certificate of Service of Appellee Procaccianti AZ II, L.P.'s Answering Brief (Appellee Procaccianti)
43. 4-Mar-2024 FILED: Hilton Casitas's Answering Brief; Certificate of Compliance for Hilton Casitas's Answering Brief; Certificate of Service for Hilton Casitas's Answering Brief (Appellee Hilton)
44. 6-Mar-2024 FILED: Motion for Procedural [sic] Order Allowing Appellants to File a Combined Reply Brief and Extending the Deadline for the Filing to March 29, 2024 (Appellants Pro Per)

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45. 7-Mar-2024 ORDERED: Motion for Procedural [sic] Order Allowing Appellants to File a Combined Reply Brief and Extending the Deadline for the Filing to March 29, 2024 (Appellants Pro Per) = GRANTED and allowing appellants to file one reply brief to address both answering briefs. FURTHER ORDERED: The reply brief shall be due by 03/29/2024. 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
46. 25-Mar-2024 FILED: Appellants' Reply Brief (Appellant Pro Per)
47. 10-Apr-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
48. 26-Apr-2024 CLNDR: CONFERENCE, Department E, 6-13-24, COURTROOM 2.
49. 29-Apr-2024 FILED: Amended Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
50. 9-May-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
51. 9-Jul-2024 MEMORANDUM DECISION (Affirmed) Hon Randall M Howe - Author; Hon Anni Hill Foster - Concur; Hon Brian Y Furuya - Concu
52. 9-Jul-2024 FILED: Decision Distribution Notification
53. 19-Jul-2024 FILED: Defendant/Appellee Procaccianti AZ II L.P.'s Application for Attorneys' Fees and Costs; Certificate of Service of Appellee Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee; Declaration Of Andrew M. Federhar in Support of Defendant/Appellee Procaccianti AZ II L.P.'s Application for Attorneys' Fees and Costs; Exhibit A (Appellee Procaccianti)
54. 19-Jul-2024 FILED: Defendant/Appellee Procaccianti AZ II L.P.'s Statement of Costs; Certificate of Service of Appellee Procaccianti AZ II L.P.'s Notice of Payment of Filing Fee (Appellee Procaccianti)
55. 23-Jul-2024 Appellants' Motion for Reconsideration (Appellants Pro Per)
56. 5-Aug-2024 FILED: Appellants' Objection to Appellee Procaccianti's Application and Statement of Attorneys' Fees (Appellants Pro Per)
57. 16-Aug-2024 FILED: Reply in Support of Defendant/Appellee Procaccianti Az II L.P.'S Application for Attorneys' Fees and Costs; Certificate of Service of Reply in Support of Defendant/Appellee Procaccianti Az II L.P.'S Application for Attorneys' Fees and Costs (Appellee Procaccianti)