

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0552

HANCOCK v. HENNESSY, et al.

Appellate Case Information

Case Filed: 7-Sep-2023

Case Closed: 3-Jul-2024

Reinstated x 1: 9-Jul-2024 Dismissal

Re-Closed:

Dept/Composition

Department F

Hon. Daniel J Kiley
Hon. Kent E Cattani
Hon. D Steven Williams

Side 1. DIANA HANCOCK, Plaintiff/Appellant

(Litigant Group) DIANA HANCOCK

- Diana Hancock

Co-Counsel for: Plaintiff/Appellant

Burton Rosenblatt, Esq. (AZ Bar No. 14023)

Julia Kerr, Esq. (MO Bar No. juliakerr)

Steven Rineberg, Esq. (MO Bar No. 54061)

Side 2. HENNESSY INDUSTRIES, INC., et al., Defendant/Appellee

(Litigant Group) HENNESSY INDUSTRIES, INC.

- Hennessy Industries Inc

Attorneys for: Defendant/Appellee Hennessy

David L O'Daniel, Esq. (AZ Bar No. 6418)

Jonathan Brannon, Esq. (AZ Bar No. 36156)

(Litigant Group) CATERPILLAR, INC.

- Caterpillar Inc

Attorneys for: Defendant/Appellee

Larry J Crown, Esq. (AZ Bar No. 13133)

Elan S Mizrahi, Esq. (AZ Bar No. 17388)

(Litigant Group) CATERPILLAR INDUSTRIAL, INC (Dismissed per order filed 07/03/2024)

(Litigant Group) HONEYWELL INTERNATIONAL, INC. [Dismissed per order filed 09/03/2024]

(Litigant Group) NAVISTAR, INC. [Dismissed per order filed 09/03/2024]

CASE STATUS

Apr 26, 2024....Assigned

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2020-007104	Product Liability- Asbestos		Dewain D Fox, Authoring Judge of Order		

OPEN DUE DATE

Court Ordered Document due

Due By: Thursday, September 26, 2024

Re: * ORDERED: Plaintiff/Appellant's Motion to Dismiss Navistar, Inc. (Appellant) = GRANTED to dismiss this appeal as to appellee Navistar Inc., and Honeywell International, Inc., with each party to bear their own attorneys' fees and costs. FURTHER ORDERED: D

67 PROCEEDING ENTRIES

- 7-Sep-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/10/23 (Hennessy), Notice of Appeal filed 8/10/23 (Honeywell), Notice of Appeal filed 8/10/23 (Caterpillar), Notice of Appeal filed 8/10/23 (Navistar)
- 7-Sep-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
- 8-Sep-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
- 13-Sep-2023 FILED: Amended Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
- 14-Sep-2023 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellant)
- 19-Sep-2023 FILED: Plaintiff/Appellant's Motion for Extension of Time to File Transcripts; Certificate of Service (Appellant)

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7. 19-Sep-2023 ORDERED: Plaintiff/Appellant's Motion for Extension of Time to File Transcripts (Appellant) = GRANTED and extending the time to file the transcripts to 10/24/2023. The case management statement remains due on 09/28/2023. Melina Brill ProTem Judge - Author
8. 20-Sep-2023 RECEIPT No.: 2023-00901 ; \$280.00, Authorization: #63008615000, Applied to: DIANA HANCOCK - Class A Filing Fee (\$280.00) Paid for: Ely Bettini Ulman & Rosenblatt - By nCourt LLC
9. 25-Sep-2023 FILED: Appellate Clerk Notice re: Appellee's Fees; Appellant's Brief/Case Management Statement Due
10. 27-Sep-2023 RECEIPT No.: 2023-00917 ; \$140.00, Check Number: 42192, Applied to: HENNESSY INDUSTRIES, INC. - Class B Filing Fee (\$140.00) Paid for: David L O'Daniel - By Arizona Premier Legal Services Inc
11. 28-Sep-2023 FILED: Case Management Statement (Appellant)
12. 29-Sep-2023 RECEIPT No.: 2023-00930 ; \$140.00, Check Number: # 11017, Applied to: HONEYWELL INTERNATIONAL, INC. - Class B Filing Fee (\$140.00) Paid for: - By Sanders & Parks PC
13. 3-Oct-2023 FILED: Reporter's Transcript - 04/21/2023 - Matters Taken Under Advisement (Kimberly McCright); Certificate of Service (Appellant)
14. 5-Oct-2023 FILED: Defendant/Appellee Honeywell International, Inc.'s Notice of Payment of Filing Fee; Certificate of Service of Defendant/Appellee Honeywell International, Inc.'s Notice of Payment of Filing Fee (Appellee Honeywell)
15. 9-Oct-2023 FILED: Caterpillar Inc.'s Notice of Payment of Filing Fee; Caterpillar Inc.'s Notice of Payment of Filing Fee (Certificate of Service) (Appellee Caterpillar Inc.)
16. 9-Oct-2023 FILED: Defendant/Appellee Hennessy Industries, Inc.'s Notice of Payment of Filing Fee; Certificate of Service (Appellee Hennessy Industries Inc.)
17. 10-Oct-2023 FILED: Defendant/Appellee Navistar, Inc.'s Notice of Payment of Filing Fee; Certificate of Service of Notice of Payment of Defendant/Appellee Navistar, Inc.'s Filing Fee (Appellee Navistar)
18. 13-Oct-2023 RECEIPT No.: 2023-00963 ; \$140.00, Authorization: # 86012243353, Applied to: CATERPILLAR, INC., et al. - Class B Filing Fee (\$140.00) Paid for: Titus Brueckner Spittler & Shelts PLC - By nCourt LLC
19. 16-Oct-2023 RECEIPT No.: 2023-00971 ; \$140.00, Authorization: #89011576586, Applied to: NAVISTAR, INC. - Class B Filing Fee (\$140.00) Paid for: Polsinelli - CityScape - By
20. 7-Nov-2023 FILED: Petitioner/Appellant Diana Hancock's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
21. 28-Nov-2023 FILED: Defendant/Appellee Hennessy Industries, Inc.'s Motion for Procedural Order Extending Time to File Answering Brief; Certificate of Service (Appellee Hennessy)
22. 29-Nov-2023 ORDERED: Defendant/Appellee Hennessy Industries, Inc.'s Motion for Procedural Order Extending Time to File Answering Brief (Appellee Hennessy) = GRANTED and extending the time to file all answering briefs from 12/18/2023 to 01/17/2024. 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
23. 9-Jan-2024 FILED: Notice of Settlement as to Defendant/Appellee Honeywell International, Inc. Only; Certificate of Service of Notice of Settlement as to Defendant/Appellee Honeywell International, Inc. Only (Appellee Honeywell)
24. 17-Jan-2024 FILED: Defendants/Appellee Hennessy Industries, LLC's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee Hennessy Industries Inc.)
25. 17-Jan-2024 FILED: Defendants/Appellee Hennessy Industries, LLC's Appendix (Appellee Hennessy Industries Inc.)
26. 17-Jan-2024 FILED: Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Answering Brief; Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Certificate of Compliance; Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Certificate of Service (Appellee Caterpillar Inc.)
27. 18-Jan-2024 FILED: Defendant/Appellee Navistar, Inc.'s Notice of Settlement; Certificate of Service of Defendant/Appellee Navistar, Inc.'s Notice of Settlement (Appellee Navistar)
28. 18-Jan-2024 FILED: Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Corrected Certificate of Service (Appellee Caterpillar Inc.)
29. 29-Jan-2024 FILED: Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Request for Oral Argument; Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Certificate of Service of Request for Oral Argument (Appellee Caterpillar)
30. 29-Jan-2024 FILED: Plaintiff/Appellant's Motion for Procedural Order for an Extension of Time to File Reply Brief; Certificate of Service (Appellant)

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31. 29-Jan-2024 ORDERED: Plaintiff/Appellant's Motion for Procedural Order for an Extension of Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 02-06-2024 to Thursday, 03-07-2024. 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
32. 31-Jan-2024 ORDERED: Vacating the 01/17/2024 due date for Honeywell International, Inc. and Navistar, Inc.'s answering briefs. FURTHER ORDERED: Directing the parties to file a status report by 03/01/2024, if stipulations to dismiss are not filed before that date. Melina Brill ProTem Judge - Author
33. 16-Feb-2024 FILED: Defendant/Appellee Hennessy Industries, Inc.'s Request for Oral Argument; Certificate of Service (Appellee Hennessy)
34. 1-Mar-2024 FILED: Status Update; Certificate of Service (Appellant)
35. 5-Mar-2024 ORDERED: Directing the parties to file a status report by 04/04/2024, if stipulations to dismiss are not filed before that date. Melina Brill ProTem Judge - Author
36. 7-Mar-2024 FILED: Petitioner/Appellant Diana Hancock's Reply Brief to Appellee Hennessy Industries, Inc.'s Answering Brief; Certificate of Compliance; Certificate of Service (Appellant)
37. 7-Mar-2024 FILED: Petitioner/Appellant Diana Hancock's Reply Brief to Caterpillar, Inc. and Caterpillar Industrial, Inc.'s Answering Brief; Certificate of Compliance; Certificate of Service (Appellant)
38. 4-Apr-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
39. 4-Apr-2024 FILED: Plaintiff's Status Update; Certificate of Service (Appellant)
40. 8-Apr-2024 ORDERED: Directing the parties to file a status report by 05/06/2024, if stipulations to dismiss are not filed before that date. Melina Brill ProTem Judge - Author
41. 10-Apr-2024 ORDERED: Defendants/Appellees Caterpillar Inc. and Caterpillar Industrial Inc.'s Request for Oral Argument (Appellee Caterpillar) and Defendant/Appellee Hennessy Industries, Inc.'s Request for Oral Argument (Appellee Hennessy) = GRANTED. Hon David B Gass - Author
42. 15-Apr-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
43. 26-Apr-2024 CLNDR: MONTHLY COURT CASE CALENDAR, Department F, 6-13-24, 10:15 am, COURTROOM 1.
44. 29-Apr-2024 FILED: Notice of Oral Argument
45. 3-May-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Julia Kerr on 04/29/2024 (Appellant)
46. 6-May-2024 FILED: Status Update; Certificate of Service Regarding Status Update to the Court (Appellant)
47. 17-May-2024 FILED: Return Receipt for Notice of Oral Argument, signed by David O'Daniel on 04/29/2024 (Appellee Hennessy)
48. 28-May-2024 ORDERED: directing the parties to file a status report on/before 6/4/24 if stipulations to dismiss are not filed before that date. Hon Daniel J Kiley - Author
49. 3-Jun-2024 FILED: Defendant/Appellee Hennessy Industries, LLC's Notice of Settlement; Certificate of Service (Appellee Hennessy)
50. 3-Jun-2024 FILED: Status Update; Certificate of Service (Appellant)
51. 4-Jun-2024 ORDERED: Vacating conference and oral argument in this matter currently set for 06/13/2024 and resetting same for 06/24/2024 at 10:15 a.m. before Department F (see order). Hon Daniel J Kiley - Author
52. 5-Jun-2024 FILED: Status Update (Duplicate); Status Update (Duplicate) (Appellant)
53. 13-Jun-2024 FILED: Plaintiff/Appellant's Motion to Dismiss Caterpillar Industrial, Inc.; Certificate of Service (Appellant)
54. 13-Jun-2024 FILED: Plaintiff/Appellant's Notice Of Settlement As To Caterpillar, Inc.; Certificate of Service (Appellant)
55. 13-Jun-2024 FILED: Plaintiff/Appellant's Notice Of Settlement As To Hennessy Industries, Inc.; Certificate of Service (Appellant)
56. 13-Jun-2024 FILED: Plaintiff/Appellant's Notice Of Settlement As To Honeywell International, Inc.; Certificate of Service (Appellant)
57. 13-Jun-2024 FILED: Plaintiff/Appellant's Notice Of Settlement As To Navistar, Inc.; Certificate of Service (Appellant)
58. 20-Jun-2024 FILED: Joint Motion to Vacate Oral Arguments Set for 06-24-2024; Certificate of Service (Appellant)
59. 21-Jun-2024 ORDERED: Joint Motion to Vacate Oral Arguments Set for 06-24-2024 (Appellant) = GRANTED/vacating the conference and oral argument on 6/24/24 in this matter. Hon Daniel J Kiley - Author

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60. 3-Jul-2024 ORDERED: Plaintiff/Appellant's Motion to Dismiss Caterpillar Industrial, Inc. (Appellant) = GRANTED. Hon Daniel J Kiley - Author
61. 3-Jul-2024 FILED: Letter, 07/03/2024, Certified Copy of Order dismissing appeal. No physical record to be returned to clerk, Maricopa County Superior Court.
[vacated per order filed 07/09/2024]
62. 9-Jul-2024 ORDERED: Vacating the terminate letter issued on 07/03/2024. Amy M Wood - Author
63. 13-Aug-2024 ORDERED: Directing the parties to file a status report on or before 08/26/2024, if stipulations to dismiss are not filed before that date. Hon Daniel J Kiley - Author
64. 22-Aug-2024 FILED: Plaintiff/Appellant's Motion to Dismiss Navistar, Inc.; Certificate of Service (Appellant)
65. 22-Aug-2024 FILED: Plaintiff/Appellant's Motion to Dismiss Honeywell International, Inc.; Certificate of Service (Appellant)
66. 23-Aug-2024 FILED: Status Update; Certificate of Service (Appellant)
67. 3-Sep-2024 ORDERED: Plaintiff/Appellant's Motion to Dismiss Navistar, Inc. (Appellant) = GRANTED to dismiss this appeal as to appellee Navistar Inc., and Honeywell International, Inc., with each party to bear their own attorneys' fees and costs. FURTHER ORDERED: Directing the parties to file a status report on or before 09/26/2024, if stipulations to dismiss as to appellees Caterpillar, Inc. and Hennessey Industries, Inc. are not filed before that date. FURTHER ORDERED: Plaintiff/Appellant's Motion to Dismiss Honeywell International, Inc. (Appellant) = GRANTED. Hon Daniel J Kiley - Author