

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0554

STERN, et al. v. KAHN, et al.

Appellate Case Information

Case Filed: 8-Sep-2023

Case Closed:

Dept/Composition

Side 1. JEFFREY A. STERN, et al., Plaintiff/Appellee

(Litigant Group) JEFFREY A. STERN, et al.

- Jeffrey A Stern
Berry L Stern
Judith B Stern

Attorneys for: Plaintiffs/Appellees

Karen L Lugosi, Esq. (AZ Bar No. 10987)

Side 2. STEPHEN KAHN, et al., Defendant/Appellant

(Litigant Group) STEPHEN KAHN

- Stephen Kahn

Attorneys for: Defendant/Appellant Kahn

Robert T Sullivan, Esq. (AZ Bar No. 22719)

Jessica J Kokal, Esq. (AZ Bar No. 29042)

Kelley M Jancaitis, Esq. (AZ Bar No. 25555)

(Litigant Group) CONGREGATION BETH ISRAEL OF PHOENIX, ARIZONA

- Congregation of Beth Israel of Phoenix

Attorneys for: Defendant/Appellant Congregation

Carl F Mariano, Esq. (AZ Bar No. 10994)

D Andrew Bell, Esq. (AZ Bar No. 17938)

Stefan Palys, Esq. (AZ Bar No. 24752)

Table with 7 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2018-009259, Negligence, Joan M Sinclair, Authoring Judge of Order.

OPEN DUE DATE

Answering Brief due

Due By:

Thursday, August 29, 2024

[1 extension]

Re: * ORDERED: Appellees' Motion for Partial Dismissal of Appeal (Appellees) = GRANTED. FURTHER ORDERED: denying Kahn's motion to join CDQ as an appellee. FURTHER ORDERED: declining to exercise special action jurisdiction over appellants' challenges to the

78 PROCEEDING ENTRIES

- 1. 7-Sep-2023 FILED: Additional Record on Appeal: Physical Exhibits: Hearing Date 1/4/23 List and # 1, 2, 3, 5, 8, 9, 19, 52, 53, 68, 69, 70, 71, 72, 73, 74 in a box
2. 8-Sep-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed by Kahn and Congregation on 08/04/23
3. 8-Sep-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Digital Exhibits: hearing Date 5/25/15 Plaintiff 1, 3, 4, 5, 6, 7, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 36, 37, 39, 43, 44, 54, 55, 56, 57, 58, 63, 64, 65, 68, 69, 76, 77, 79, 80, 82, 85, 87, 88, 91, 93, 94, 95, 101, 105, 108, 109, 110, 111, 112, 114, 116, 119, 120, 124, 127, 128, 134, 136, 140, 141, 143, 144, 146, 148, 150, 151, 152, 153, 154, 157, 160, 161, 165 Hearing Date 1/18/23 Defendant 1, 2, 3, 4, 8, 11, 14, 15, 18, 19, 23, 25, 28, 29, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 55, 56, 57, 58, 68, 69, 71, 72, 74, 76, 77, 78
4. 11-Sep-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
5. 14-Sep-2023 RECEIPT No.: 2023-00878 ; \$280.00, Check Number: #201694, Applied to: CONGREGATION BETH ISRAEL OF PHOENIX, ARIZONA - Class A Filing Fee (\$280.00) Paid for: - By Lewis Brisbois Bisgaard & Smith LLP
6. 18-Sep-2023 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
7. 19-Sep-2023 FILED: Notice of Appearance; Certificate of Service (Appellant Kahn)
8. 20-Sep-2023 FILED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief (First Request); Certificate of Service (Appellant Kahn)

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9. 20-Sep-2023 ORDERED: Pursuant to Eaton Fruit Co. v. California Spray-Chemical Corp., staying appeal to/including 10/20/2023. Signed order re: minute entry of 06/12/2023 filed 06/14/2023 and the minute entry order dated 07/05/2023, and filed 07/07/2023 due within 10 days after its entry. If appeal reinstated by filing of signed order, the case management statement is due 10/30/2023, opening brief due 11/20/2023. Barbara Vidal Vaught ProTem Judge - Author
10. 20-Sep-2023 ORDERED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief (First Request) (Appellant Kahn) = GRANTED in part. FURTHER ORDERED: Continuing the stay of this appeal for the purposes set forth in this court's 09/20/2023 stay order and for the parties to participate in mediation. FURTHER ORDERED: Directing appellants to file a status report by 11/28/2023, that indicates whether the parties reached a settlement and the status of the motion for signed orders. FURTHER ORDERED: Vacating the 10/30/2023 due date for the case management statement and the 11/20/2023 due date for the opening brief. The court will address the briefing schedule after receipt of appellants' status report.
11. 25-Sep-2023 RECEIPT No.: 2023-00911 ; \$280.00, Authorization: # 68011969824, Applied to: STEPHEN KAHN - Class A Filing Fee (\$280.00) Paid for: Broening Oberg Woods & Wilson PC - By nCourt LLC
12. 2-Oct-2023 FILED: Plaintiffs/Appellees' Notice of Payment of Filing Fee; Certificate of Service (Appellee)
13. 6-Oct-2023 RECEIPT No.: 2023-00942 ; \$140.00, Authorization: 79007650186, Applied to: JEFFREY A. STERN, et al. - Class B Filing Fee (\$140.00) Paid for: Karen L Lugosi PC - By nCourt LLC
14. 22-Nov-2023 FILED: Motion to Continue Stay; Certificate of Service (Appellant)
15. 24-Nov-2023 ORDERED: Motion to Continue Stay (Appellant) = GRANTED and continuing the stay of this appeal until 12/27/2023, for the purposes set forth in this court's 09/20/2023 stay order – to obtain signed orders. FURTHER ORDERED: If this court has received the signed orders before 12/27/2023, the case management statement is due on 01/08/2024, and the opening brief is due on 01/26/2024. Barbara Vidal Vaught ProTem Judge - Author
16. 30-Nov-2023 FILED: Notice of Filing Final Order; Certificate of Service; Exhibit A (Copy of Maricopa County Superior Court Order dated 11/29/2023 re: Rule 54(c)) (Appellant Kahn)
17. 4-Dec-2023 ORDERED: Affirming this court's 11/24/2023 order and continuing the stay of the appeal until 12/27/2023, for the purposes set forth in this court's 09/20/2023 stay order. Barbara Vidal Vaught ProTem Judge - Author
18. 8-Dec-2023 FILED: Appellees' Motion to Reinvest Jurisdiction in Superior Court and Continue Stay of Appeal; Certificate of Service (Appellee)
19. 11-Dec-2023 ORDERED: Appellees' Motion to Reinvest Jurisdiction in Superior Court and Continue Stay of Appeal (Appellee) = GRANTED, continuing the stay of the appeal until 01/29/2024, and vesting jurisdiction in the superior court to allow it to consider appellees' motion relating to the documents marked confidential. This court does not express an opinion regarding the merits of that motion. FURTHER ORDERED: The case management statement is due on 02/09/2024, and the opening brief is due on 02/28/2024. Barbara Vidal Vaught ProTem Judge - Author
20. 11-Dec-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes final judgment re: rule 54(c))
21. 23-Jan-2024 FILED: Notice of Superior Court Decision; Certificate of Service (Appellee)
22. 29-Jan-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
23. 8-Feb-2024 FILED: Case Management Statement (Appellant Kahn)
24. 14-Feb-2024 FILED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief; Certificate of Service (Appellant Kahn)
25. 14-Feb-2024 ORDERED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief (Appellant Kahn) = GRANTED. Due date EXTENDED from Wednesday, 02-28-2024 to Friday, 03-29-2024. If the briefs are not timely filed, the court will dismiss this appeal. Barbara Vidal Vaught ProTem Judge - Author
26. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 01/24/2023 Trial - Day One; Certificate of Service; Reporter's Transcript - 01/24/2023 - Trial Day 1 (Diane Donoho) (Appellant Kahn)
- [stricken per order filed 02/20/2024]
27. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 01/25/2023 Trial - Day Two; Certificate of Service; Reporter's Transcript - 01/25/2023 - Trial Day 2 (Diane Donoho) (Appellant Kahn)
- [stricken per order filed 02/20/2024]
28. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 07/30/2021 Oral Argument; Certificate of Service; Reporter's Transcript - 07/30/2021 - Oral Argument (Tammy Brogan) (Appellant Kahn)
29. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 02/22/2022 Oral Argument; Certificate of Service; Reporter's Transcript - 02/22/2022 - Oral Argument (Karen Raile) (Appellant Kahn)

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30. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 10/12/2022 Oral Argument; Certificate of Service; Reporter's Transcript - 10/12/2022 - Virtual Oral Argument Hearing (Alexander Reaves) (Appellant Kahn)
31. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 10/27/2022 Oral Argument; Certificate of Service; Reporter's Transcript - 10/27/2022 - Oral Argument (Ashley Bennett) (Appellant Kahn)
32. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 11/03/2022 Oral Argument; Certificate of Service; Reporter's Transcript - 11/03/2022 - Oral Arguments (Natasha Fondren) (Appellant Kahn)
33. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 01/04/2023 Evidentiary Hearing – AM Session; Certificate of Service; Reporter's Transcript - 01/04/2023 - Evidentiary Hearing - AM Session (Hope Yeager) (Appellant Kahn)
34. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 01/04/2023 Evidentiary Hearing – PM Session; Certificate of Service; Reporter's Transcript - 01/04/2023 - Evidentiary Hearing - Afternoon Session (Jennifer Church) (Appellant Kahn)
35. 14-Feb-2024 FILED: Notice of Filing and Serving Reporter's Transcript of 01/13/2023 Final Trial Management Conference; Certificate of Service; Reporter's Transcript - 01/13/2023 - Trial Management Conference (Robin Lawlor) (Appellant Kahn)
36. 20-Feb-2024 ORDERED: Striking the transcripts of the 01/24/2023 and 01/25/2023 proceedings. Geoffrey P Butzine ProTem Judge - Author
37. 21-Feb-2024 FILED: Reporter's Transcript - 02/01/2023 - Jury Trial Day 6 (Robin Lawlor)
38. 21-Feb-2024 FILED: Reporter's Transcript - 01/30/23 - Trial Day 4 - AM - (Hope J Yeager)
39. 21-Feb-2024 FILED: Reporter's Transcript - 02/07/2023 - Trial Day 10 (Diane Donoho)
40. 21-Feb-2024 FILED: Reporter's Transcript - 02/08/2023 - Trial Day 11 (Diane Donoho)
41. 21-Feb-2024 FILED: Reporter's Transcript - 02/09/2023 - Trial Day 12 - Afternoon Session (Diane Donoho)
42. 21-Feb-2024 FILED: Reporter's Transcript - 01/24/2023 - Trial Day 1 (Diane Donoho)
43. 21-Feb-2024 FILED: Reporter's Transcript - 01/25/2023 - Trial Day 2 (Diane Donoho)
44. 21-Feb-2024 FILED: Reporter's Transcript - 01/26/2023 - Trial Day 3 (Diane Donoho)
45. 21-Feb-2024 FILED: Reporter's Transcript - 01/30/2023 - Trial Day 4 - Afternoon Session (Diane Donoho)
46. 21-Feb-2024 FILED: Reporter's Transcript - 01/31/2023 - Trial Day 5 (Diane Donoho)
47. 21-Feb-2024 FILED: Reporter's Transcript - 02/02/2023 - Trial Day 7 (Diane Donoho)
48. 21-Feb-2024 FILED: Reporter's Transcript - 02/03/2023 - Trial Day 8 (Diane Donoho)
49. 21-Feb-2024 FILED: Reporter's Transcript - 02/06/2023 - Trial Day 9 (Diane Donoho)
50. 22-Feb-2024 FILED: Reporter's Transcript - 02/09/2023 - Trial - Day 12 (Morning Session) (Jennifer Church)
51. 21-Mar-2024 FILED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief; Certificate of Service (Appellant Kahn)
52. 21-Mar-2024 ORDERED: Unopposed Motion for Procedural Order to Extend Time to File Opening Brief (Appellant Kahn) = GRANTED. Due dates EXTENDED from Friday, 03-29-2024 to Friday, 04-05-2024. If the briefs are not timely filed, the court will dismiss this appeal. Barbara Vidal Vaught ProTem Judge - Author
53. 3-Apr-2024 FILED: Motion for Procedural Order to Increase Word Limit for Opening Brief; Certificate of Service (Appellant Kahn)
54. 4-Apr-2024 FILED: Amended Motion for Procedural Order to Increase Word Limit for Opening Brief; Certificate of Service (Appellant)
55. 4-Apr-2024 ORDERED: Amended Motion for Procedural Order to Increase Word Limit for Opening Brief (Appellant) = GRANTED and, in the court's discretion, allowing Stephen Kahn to file an opening brief with up to 23,000 words. Hon David B Gass - Author
56. 5-Apr-2024 FILED: Opening Brief of Defendant/Appellant Congregation Beth Israel; Certificate of Compliance of Congregation Beth Israel's Opening Brief; Certificate of Service of Congregation Beth Israel's Opening Brief (Appellant Congregation)
57. 5-Apr-2024 FILED: Opening Brief of Defendant/Appellant Stephen Kahn; Certificate of Compliance; Certificate of Service; Exhibit A (Appellant Kahn)
58. 8-Apr-2024 FILED: Opening Brief of Defendant/Appellant Congregation Beth Israel; Certificate of Compliance of Congregation Beth Israel's Opening Brief; Certificate of Service of Congregation Beth Israel's Opening Brief (Appellant Congregation)

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59. 8-Apr-2024 FILED: Returned US Mail, Order Extending Time to File Opening Briefs dated 03/21/2024, addressed to Carl Mariano, Insufficient Address/Unable to Forward (Resent 04/10/2024)
60. 9-Apr-2024 ORDERED: Accepting the opening brief filed on 04/08/2024 in place of the brief filed on 04/05/2024. The answering brief(s) remains due by 05/15/2024. Barbara Vidal Vaught ProTem Judge - Author
61. 12-Apr-2024 FILED: Returned US Mail, Order Granting Motion to Exceed Word Limit dated 04/04/2024, addressed to Carl Mariano, Insufficient Address/Unable to Forward (Resent 04/12/2024)
62. 29-Apr-2024 FILED: Appellees' Unopposed Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellees)
63. 29-Apr-2024 ORDERED: Appellees' Unopposed Motion for Extension of Time to File Answering Brief (Appellees) = GRANTED and extending the time to file the answering brief from 05/15/2024 to 07/15/2024. If the brief is not timely filed, the court will submit this appeal for decision on the record and the opening briefs. Barbara Vidal Vaught ProTem Judge - Author
64. 3-May-2024 FILED: Appellees' Motion for Partial Dismissal of Appeal; Certificate of Service (Appellees)
65. 6-May-2024 ORDERED: Vacating the answering brief due date. The court will set a new due date if appropriate when it rules on the pending motion. Benjamin A Armstrong ProTem Judge - Author
66. 7-May-2024 FILED: Certificate of Mailing (Appellant Kahn)
67. 7-May-2024 FILED: Amended Case Management Statement (Appellant Kahn)
68. 14-May-2024 FILED: Response in Opposition to Motion for Partial Dismissal of Appeal or, Alternatively Motion to Join Non-Party as Appellee; Certificate of Service (Appellant)
69. 21-May-2024 FILED: Appellees' Unopposed Motion for Extension of Time to File Reply In Support of Motion for Partial Dismissal of Appeal; Certificate of Service (Appellee)
70. 23-May-2024 ORDERED: Appellees' Unopposed Motion for Extension of Time to File Reply In Support of Motion for Partial Dismissal of Appeal (Appellee) = GRANTED. Due date EXTENDED from Tuesday, 05-21-2024 to Friday, 05-31-2024. No further extension will be granted. Geoffrey P Butzine ProTem Judge - Author
71. 31-May-2024 FILED: Appellees' Reply in Support of Motion for Partial Dismissal of Appeal and Response in Opposition to Appellant's Motion to Join Non-Party as Appellee; Certificate of Service (Appellee)
72. 24-Jun-2024 ORDERED: Appellees' Motion for Partial Dismissal of Appeal (Appellees) = GRANTED. FURTHER ORDERED: denying Kahn's motion to join CDQ as an appellee. FURTHER ORDERED: declining to exercise special action jurisdiction over appellants' challenges to the 2022 Orders. FURTHER ORDERED: Sterns' answering brief is due 8/5/24. Hon Anni Hill Foster - Author
73. 27-Jun-2024 FILED: Notice of Health Care Issues; Certificate Of Service Of Congregation Beth Israel's Notice Of Health Care Issues (Appellant Congregation)
74. 24-Jul-2024 FILED: Appellees' Unopposed Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee)
75. 24-Jul-2024 FILED: Certificate of Service (Duplicate) (Appellee)
76. 24-Jul-2024 ORDERED: Appellees' Unopposed Motion for Extension of Time to File Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Monday, 08-05-2024 to Thursday, 08-29-2024. If the brief is not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Steven C Lawrence ProTem Judge - Author
77. 26-Jul-2024 FILED: Notice of Association of Counsel; Certificate of Service of Congregation Beth Israel's Notice of Association of Counsel (Appellant Congregation)
78. 21-Aug-2024 FILED: Answering Brief of Stephen Kahn re: Vicarious Liability; Certificate of Compliance; Certificate of Service (Appellant Kahan)