

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0571

SMITH, et al. v. DELLARIPA, et al.

Appellate Case Information

Case Filed: 15-Sep-2023

Case Closed:

Dept/Composition

Department B

Hon. Andrew M Jacobs
Hon. Jennifer M Perkins
Hon. David B Gass

Side 1. HERMAN B. SMITH, et al., Plaintiff/Appellant

(Litigant Group) HERMAN B. SMITH, et al.

- Herman B Smith
Vital Signs Anesthesia Inc

Attorneys for: Plaintiff/Appellant

Robert J Itri, Esq. (AZ Bar No. 10938)
Chelsea L Gulinson, Esq. (AZ Bar No. 34886)
Elizabeth C Fine, Esq. (AZ Bar No. 30054)
Cober Plucker, Esq. (AZ Bar No. 24758)

Side 2. JAMES S. DELLARIPA, et al., Defendant/Appellee

(Litigant Group) JAMES S. DELLARIPA, et al.

- James S Dellaripa
Ginger Dellaripia
James Dellaripa MD PLLC
Southwest Anesthesia Group LLC
IOM LLC
Chaparral Medical Billing Company LLC

Attorneys for: Defendants/Appellees

Blake E Whiteman, Esq. (AZ Bar No. 10521)
Joseph A Brophy, Esq. (AZ Bar No. 26662)

CASE STATUS

Aug 20, 2024....Pending in ASC

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2020-011176, Contracts;Fraud, Dewain D Fox, Authoring Judge of Order.

Table with 2 columns: DESCENDENT CASE(S), Cause/Charge/Class. Row 1: ASC, CV-24-0194-PR.

CASE DECISION

18-Jul-2024 MEMORANDUM DECISION

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

Filed: 18-Jul-2024 Mandate:

Table with 1 column: Decision Disposition. Content: Reversed, Remanded.

37 PROCEEDING ENTRIES

- 1. 15-Sep-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/18/23
2. 15-Sep-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3. 18-Sep-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 28-Sep-2023 RECEIPT No.: 2023-00921 ; \$280.00, Check Number: #21979, Applied to: HERMAN B. SMITH, et al. - Class A Filing Fee (\$280.00) Paid for: - By Milligan Lawless PC
5. 29-Sep-2023 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
6. 6-Oct-2023 FILED: Case Management Statement (Appellant)

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0571****SMITH, et al. v. DELLARIPA, et al.****37 PROCEEDING ENTRIES**

7. 10-Oct-2023 FILED: Appellants' Motion for Procedural Order (to File Opening Brief); Certificate of Service (Appellant)
8. 11-Oct-2023 FILED: Appellees' Motion To Determine Jurisdiction; Certificate of Service (Appellant)
9. 11-Oct-2023 ORDERED: Appellants' Motion for Procedural Order (to File Opening Brief) (Appellant) = DENIED. Melina Brill ProTem Judge - Author
10. 12-Oct-2023 ORDERED: Vacating the 11/17/2023 due date for the opening brief. The order ruling on the pending motion (motion to determine jurisdiction) will set a due date to file the opening brief, if the appeal is not dismissed. Melina Brill ProTem Judge - Author
11. 16-Oct-2023 FILED: Notice of Payment of Appellees' Filing Fee; Certificate of Service (Appellee)
12. 20-Oct-2023 RECEIPT No.: 2023-00994 ; \$140.00, Authorization: #93005936624, Applied to: JAMES S. DELLARIPA, et al. - Class B Filing Fee (\$140.00) Paid for: Jennings Haug Keleher McLeod LLP - By nCourt LLC
13. 30-Oct-2023 FILED: Appellants' Response to Appellees' Motion to Determine Jurisdiction; Certificate of Service (Appellants)
14. 20-Nov-2023 ORDERED: Appellees' Motion To Determine Jurisdiction (Appellant) = GRANTED as set forth herein. FURTHER ORDERED: The opening brief is due on 12/22/2023. If the opening brief is not timely filed, the court will dismiss this appeal. Hon D Steven Williams - Author
15. 15-Dec-2023 FILED: Appellants' Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances; Certification of Service (Appellant)
16. 15-Dec-2023 FILED: Notice of Appearance; Certification of Service (Appellant)
17. 18-Dec-2023 FILED: Amended Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances; Certification of Service; Exhibit A (To Amended Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances) (Appellant)
18. 18-Dec-2023 ORDERED: Appellants' Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances (Appellant) = GRANTED. Due date EXTENDED from Friday, 12-22-2023 to Friday, 01-05-2024. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
19. 5-Jan-2024 FILED: Appellants' Opening Brief; Certificate of Compliance; Certification of Service (Appellant)
20. 9-Jan-2024 FILED: Appellants' Request for Oral Argument; Certification of Service (Appellant)
21. 9-Jan-2024 FILED: Notice of Appearance; Certification of Service (Appellant)
22. 14-Feb-2024 FILED: Appellees' Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
23. 5-Mar-2024 FILED: Appellants' Reply Brief; Certificate of Compliance; Certification of Service (Appellant)
24. 13-Mar-2024 ORDERED: Appellants' Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
25. 2-Apr-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
26. 12-Apr-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
27. 26-Apr-2024 CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 6-11-24, 10:00 am, COURTROOM 2.
28. 26-Apr-2024 FILED: Notice of Oral Argument
29. 30-May-2024 FILED: Memorandum: Substitute Judge Gass for Judge Weinzweig (Chief Judge Gass)
30. 3-Jun-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Cober Plucker on 04/26/2024 (Appellant)
31. 4-Jun-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Joseph Brophy on 04/26/2024 (Appellee)
32. 4-Jun-2024 ORDERED: In addition to whatever arguments the parties wish to advance, counsel should be prepared to address the following questions: (see order). Hon Andrew M Jacobs - Author
33. 14-Jun-2024 FILED: Sign-in Sheet/Case is Under Advisement as of 6/11/24
34. 18-Jul-2024 MEMORANDUM DECISION (Reversed, Remanded) Hon Jennifer M Perkins - Author; Hon Andrew M Jacobs - Concur; Hon David B Gass - Concur
35. 18-Jul-2024 FILED: Decision Distribution Notification
36. 20-Aug-2024 FILED: Email Notice from ASC re: Petition for Review filed 08/19/2024; request for partial record

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0571

SMITH, et al. v. DELLARIPA, et al.

37 PROCEEDING ENTRIES

37. 20-Aug-2024 FILED: Letter forwarding partial record to Arizona Supreme Court