

Court of Appeals, Division One

Civil Appeal

1 CA-CV 24-0095

WHITMER, et al. v. HILTON/PROCACCIANTI

Appellate Case Information

Case Filed: 14-Feb-2024

Case Closed:

Dept/Composition

Consolidated with: 1 CA-CV 24-0108 1 CA-CV 24-0110 1 CA-CV 24-0114

Side 1. R. L. WHITMER, et al., Plaintiff/Appellant

(Litigant Group) R. L. WHITMER, et al.

- R L Whitmer
Colleen London

(Litigant Group) ZADOK ELI, et al. (1 CA- CV 24-0110)

- Zadok Eli PRO SE
Hana Eli PRO SE

Attorneys for: Plaintiffs/Appellants

Ross P Meyer, Esq. (AZ Bar No. 28473)

Side 2. HILTON CASITAS COUNCIL OF HOMEOWNERS, Defendant/Appellee

(Litigant Group) HILTON CASITAS COUNCIL OF HOMEOWNERS

- Hilton Casitas Council of Homeowners

Attorneys for: Defendant/Appellee

R Corey Hill, Esq. (AZ Bar No. 12188)
Ginette M Hill, Esq. (AZ Bar No. 18272)
Christopher Robbins, Esq. (AZ Bar No. 11064)

Side 3. PROCACCIANTI AZ II, LP, Intervenor/Appellee

(Litigant Group) PROCACCIANTI AZ II, LP

- Procaccianti AZ II LP

Attorneys for: Intervenor/Appellee

Andrew M Federhar, Esq. (AZ Bar No. 6567)
Jessica Anne Gale, Esq. (AZ Bar No. 30583)

Table with 6 columns: PREDECESSOR CASE (S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2015-053091, Request for Receiver, Melissa Iyer Julian, Authoring Judge of Order.

3 OPEN DUE DATES

Reply to Motion due Due By: Wednesday, September 18, 2024

Re: \* FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Response to Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation; Intervenor/Appellee Procaccianti AZ II, L.P.'s Certificate of Service of R

Opening Brief due Due By: Friday, September 20, 2024

[1 extension]

Re: FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due

Response to Motion to Exceed due Due By: Wednesday, September 25, 2024

Re: Joinder to Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation (Appellants Pro Per)

CALENDAR

Friday MOTION CALENDAR
6-Sep-2024 Department M;

File date: 8/16/2024..... \* Intervenor/Appellee Procaccianti AZ II, L.P.'s Request for Service by Email and Mail (Intervenor/Appellee)

DECISION RENDERED: See proceeding entry for ORDER dated 9-Sep-2024 for more information...

3 PENDING MATTERS

General Motion Filed: 6-Sep-2024

\* Notice of Intervenor's Inproper

Court of Appeals, Division One

Civil Appeal

1 CA-CV 24-0095

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3 PENDING MATTERS

Motion for Extension of Time

Filed: 10-Sep-2024

\* Motion for Procedural Order to EXTEND THE OPENING BRIEF Deadline by Two Weeks and to Extend the Word Limitation (Appellant)

General Motion

Filed: 10-Sep-2024

\* Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to EXTEND THE WORD LIMITATION (Appellant)

CASE DECISION

28-Mar-2024 ORDER



\*\*\*Vacated\*\*\*

\* ORDERED: Dismissing this appeal. FURTHER ORDERED: Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals and Motion to Correct Caption in Appeals (Appellee) = DENIED. FURTHER ORDERED: Denying the motion to correct caption as the caption refl

Filed: 28-Mar-2024

Mandate:

Decision Disposition
<b>Dismissed</b>

David Gass.....Author

40 PROCEEDING ENTRIES

- 14-Feb-2024 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 01/16/24
- 14-Feb-2024 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
- 14-Feb-2024 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
- 5-Mar-2024 RECEIPT No.: 2024-00219 ; \$280.00, Authorization: #65007339184, Applied to: R. L. WHITMER, et al. - Class A Filing Fee (\$280.00) Paid for: R. L. WHITMER, et al. - By nCourt LLC
- 11-Mar-2024 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
- 11-Mar-2024 FILED: Settlement Conference Program Notice
- 12-Mar-2024 FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee; Intervenor/Appellee Procaccianti AZ II, L.P.'s Certificate of Service of Notice of Payment of Filing Fee (Appellee Procaccianti)
- 12-Mar-2024 FILED: Notice of Appellee's Filing Fee for Hilton Casitas Council of Homeowners; Certificate of Service (Appellee Hilton)
- 15-Mar-2024 FILED: Procaccianti's Joinder in Appellants [sic] Motion to Consolidate 1-CA-CV-0108, 1-CA-CV-24-0110 and 1-CA-CV-0114 with 1-CA-CV-0095; Certificate of Service of Procaccianti's Joinder in Appellants [sic] Motion to Consolidate 1-CA-CV-0108, 1-CA-CV-24-0110 and 1-CA-CV-0114 with 1-CA-CV-0095 (Appellee Procaccianti)
- 18-Mar-2024 RECEIPT No.: 2024-00264 ; \$140.00, Authorization: #78012422198, Applied to: HILTON CASITAS COUNCIL OF HOMEOWNERS - Class B Filing Fee (\$140.00) Paid for: Hill Hall & DeCiancio PLC - By nCourt LLC
- 18-Mar-2024 RECEIPT No.: 2024-00268 ; \$140.00, Authorization: #78012422198, Applied to: PROCACCIANTI AZ II, LP - Class B Filing Fee (\$140.00) Paid for: Spencer Fane LLP - By nCourt LLC
- 18-Mar-2024 FILED: Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals and Motion to Correct Caption in Appeals; Certificate of Service - Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals -and Motion to Correct Caption in Appeals (Appellee)
- 25-Mar-2024 FILED: Case Management Statement (Appellant)
- 25-Mar-2024 FILED: Notice of Errata (Request to Accept refiled CMS 03/25); Certificate of Service - Case Management Statement (Appellant)
- 28-Mar-2024 ORDERED: Dismissing this appeal. FURTHER ORDERED: Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals and Motion to Correct Caption in Appeals (Appellee) = DENIED. FURTHER ORDERED: Denying the motion to correct caption as the caption reflects what Hilton Casitas Council of Homeowners requests. Hon David B Gass - Author
- 6-Apr-2024 FILED: Motion to Reinstate the Appeal of 1 CA-CV 24-0095; Certificate of Service (Appellant)

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 24-0095****WHITMER, et al. v. HILTON/PROCACCIANTI****40 PROCEEDING ENTRIES**

17. 8-Apr-2024 ORDERED: Any response (to the Motion to Reinstate the Appeal of 1 CA-CV 24-0095) is due by 04/19/2024. Melina Brill ProTem Judge - Author
18. 15-Apr-2024 FILED: Intervenor / Appellee Procaccianti Az II, L.P.'S Response to Motion to Reinstate the Appeal of 1- CA-CV-24-0095; Intervenor / Appellee Procaccianti Az II, L.P.'S Certificate of Service of Response to Motion to Reinstate the Appeal of 1- CA-CV-24-0095 (Intervenor/Appellee)
19. 17-Apr-2024 FILED: Defendant Hilton Casitas' Response to Motions to Reinstate in No. 1 CA-CV 24-0095, No. 1 CA-CV 24-0108, and No. 1 CA-CV 24-0114; Certificate of Service for Defendant Hilton Casitas' Response to Motions to Reinstate in No. 1 CA-CV 24-0095, No. 1 CA-CV 24-108, and No. 1 CA-CV 24-0114 (Defendant/Appellee)
20. 22-Apr-2024 FILED: Reply in Support of Motion to Reinstate the Appeal of 1 CA-CV 24-0095; Certificate of Service (Appellant)
21. 29-Apr-2024 ORDERED: Directing the superior court to determine whether the record is accurate and whether any documents are missing. In issuing this order, this court expresses no opinion on the accuracy of the record. FURTHER ORDERED: Within 5 days from the date of this order, appellants shall file a motion in the superior court with this order attached, requesting a ruling regarding the accuracy of the record. FURTHER ORDERED: The superior court may in its discretion hold an evidentiary hearing and may direct the parties to file any motions or documents it deems necessary to determine the accuracy of the record. FURTHER ORDERED: Within 5 days after the superior court issues a ruling, appellants must file a notice with this court with the ruling attached. Upon receipt of the superior court's ruling, this court will rule on the motion to reinstate. FURTHER ORDERED: Directing appellants to file written notice with this court of the status of the superior court proceedings by 05/29/2024. Hon David B Gass - Author
22. 29-May-2024 FILED: Notice of Status of Superior Court Proceedings; Certificate of Service (Appellant)
23. 19-Jul-2024 ORDERED: Motion to Reinstate the Appeal of 1 CA-CV 24-0095 (Appellants); Combined Motion to Reinstate 1 CA-CV 24-0108 and 1 CA-CV 24-0114 (Appellants Pro Per) = GRANTED and reinstating appeals 1 CA-CV 24-0095, 1 CA-CV 24-0108, and 1 CA-CV 24-0114. FURTHER ORDERED: vacating the 3/28/24 orders dismissing 1 CA-CV 24-0095, 1 CA-CV 24-0108, and 1 CA-CV 24-0114. FURTHER ORDERED: consolidating appeals 1 CA-CV 24-0095, 1 CA-CV 24-0108, 1 CA-CV 24-0110, and 1 CA-CV 24-0114. FURTHER ORDERED: lifting the stay of this consolidated appeal. FURTHER ORDERED: requiring appellants file case management statements by 7/31/24. FURTHER ORDERED: requiring appellants file opening briefs by 8/27/24. If appellants do not file opening briefs timely, the court will dismiss the consolidated appeal. Hon David B Gass - Author
24. 31-Jul-2024 FILED: Amended Case Management Statement; Certificate of Service - Amended Case Management Statement (Appellant)
25. 1-Aug-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
26. 2-Aug-2024 FILED: Request to Postpone the Opening Brief Deadline Until After the Maricopa County Clerk of the Superior Court Supplements the Electronic [sic] Index of Record (Appellant Pro Per)
27. 2-Aug-2024 ORDERED: Vacating the 08/27/2024 due date for opening brief. Order ruling on pending motion will set a due date to file the opening brief. Melina Brill ProTem Judge - Author
28. 16-Aug-2024 FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Request for Service by Email and Mail; Intervenor/Appellee Procaccianti AZ II, L.P.'S Certificate of Service of Request for Service by Email and Mail; Order Granting Intervenor/Appellee Procaccianti AZ II, L.P.'S Request for Service by Email and Mail (Proposed Order) (Intervenor/Appellee)
29. 21-Aug-2024 ORDERED: Request to Postpone the Opening Brief Deadline Until After the Maricopa County Clerk of the Superior Court Supplements the Electronic = GRANTED. FURTHER ORDERED: Opening briefs are due by 09/20/2024. If the briefs are not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
30. 29-Aug-2024 FILED: Response to Intervenor's Request for Service Via Mail and Email (Appellant Pro Per)
31. 5-Sep-2024 FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Reply to Response to Request for Service by Email and Mail; Intervenor/Appellee Procaccianti AZ II, L.P.'S Certificate of Service of Request for Service by Email and Mail (Intervenor/Appellee)
32. 6-Sep-2024 FILED: Appellant Elis' Rule 3 (b) Motion to Stay the Appeal in Case 1CA-CV24-0110, and Revest Jurisdiction in the Superior Court to Consider a Rule 60 (b)(5) Motion based on the August 2023 Ruling in LC2022-000424 (Appellant Eli Pro Per)
33. 6-Sep-2024 FILED: Notice of Intervenor's Improper [sic] Service and Request for an Order of Compliance with ARCAP Rule 4(F)(Appellant Whitmer Pro Per)
34. 9-Sep-2024 ORDERED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Request for Service by Email and Mail (Intervenor/Appellee) = DENIED in the court's discretion. FURTHER ORDERED: The court will consider a new motion for service via email if future service issues arise. Hon David B Gass - Author
35. 9-Sep-2024 ORDERED: Appellant Elis' Rule 3 (b) Motion to Stay the Appeal in Case 1CA-CV24-0110, and Revest Jurisdiction in the Superior Court to Consider a Rule 60 (b)(5) Motion based on the August 2023 Ruling in LC2022-000424 (Appellant Pro Per Eli) = DENIED. Hon David B Gass - Author
36. 10-Sep-2024 FILED: Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation; Certificate of Service (Appellant)

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 24-0095**

**WHITMER, et al. v. HILTON/PROCACCIANTI**

**40 PROCEEDING ENTRIES**

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| 37. | 11-Sep-2024 | Joinder to Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation (Appellants Pro Per)  |
| 38. | 11-Sep-2024 | FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Response to Notice of Intervenor's Improper Service and Request for an Order of Compliance with ARCAP Rule 4(F); Intervenor/Appellee Procaccianti AZ II, L.P.'S Certificate of Service of Response to Notice of Intervenor's Improper Service and Request for an Order of Compliance with ARCAP Rule 4(F) (Intervenor)                         |
| 39. | 11-Sep-2024 | FILED: Intervenor/Appellee Procaccianti AZ II, L.P.'s Response to Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation; Intervenor/Appellee Procaccianti AZ II, L.P.'s Certificate of Service of Response to Motion for Procedural Order to Extend the Opening Brief Deadline by Two Weeks and to Extend the Word Limitation (Intervenor) |
| 40. | 13-Sep-2024 | Reply to Intervenor's Response of Inproper [sic] Service and Request for an Order of Compliance with ARCAP Rule 4(F) (Appellants Pro Per)  |