

Court of Appeals, Division One
Industrial Commission

1 CA-IC 23-0013

FRANZMEIER v. CITY OF TOLLESON/AZ MUNICIPAL

Appellate Case Information

Case Filed: 9-Aug-2023
Case Closed:

Dept/Composition

Department B
Hon. Michael J Brown
Hon. D Steven Williams
Hon. Daniel J Kiley

Consolidated with: 1 CA-IC 23-0037

Side 1. JERALD FRANZMEIER, Petitioner

(Litigant Group) JERALD FRANZMEIER

- Jerald Franzmeier, Petitioner Employee PRO SE

Side 2. THE INDUSTRIAL COMMISSION OF ARIZONA,

Respondent,

CITY OF TOLLESON,

Respondent Employer,

AZ MUNICIPAL RISK RETENTION POOL,

Respondent Carrier.

, Respondent

(Litigant Group) ICA

- Industrial Commission of Arizona

Attorneys for: Respondent ICA

Afshan Peimani, Esq. (AZ Bar No. 26156)

(Litigant Group) CITY OF TOLLESON/AZ MUNICIPAL RISK RETENTION POOL

- City of Tolleson, Respondent Employer
- Arizona Municipal Risk Retention Pool, Respondent Insurance Carrier

Attorneys for: Respondent Employer/Carrier

Stephen C Baker, Esq. (AZ Bar No. 9010)

CASE STATUS

Jul 25, 2024.....Assigned

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
ICA 20221310329			Kenneth Joseph Hill, Administrative Law Judge		
INSCA BLCM WC 000000471892			Comments: (none)		

CALENDAR

Tuesday MONTHLY COURT CASE CALENDAR
24-Sep-2024 Department B; COURTROOM 2

Mixed

PENDING MATTER

General Motion

Filed: 8-Jul-2024

Motion to Strike Statements and Argument in Reply Brief (Respondent Employer/Carrier)

66 PROCEEDING ENTRIES

- 9-Aug-2023 FILED: Request for Review of Decision Upon Review by the Honorable Administrative Law Judge Kenneth J. Hill dated 07/10/2023 (Petition for Special Action); AZ Court of Appeals for ICA Claim No. 20221310329; Appeal cover sheet (Petitioner Pro Per)
- 14-Aug-2023 FILED: Writ of Review
FILED: Certificate of Mailing re: Writ of Review

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3. 17-Aug-2023 RECEIPT No.: 2023-00765 ; \$280.00, Authorization: #29010233806, Applied to: JERALD FRANZMEIER - Class A Filing Fee (\$280.00) Paid for: JERALD FRANZMEIER - By nCourt LLC
4. 18-Aug-2023 FILED: Notice of Appearance of Respondents City of Tolleson and AZ Municipal Risk Retention Pool; Certificate of Service (Respondent Employer/Carrier)
5. 23-Aug-2023 FILED: e-Record on Appeal: ALJ Hearing File (1 volume) Claims File (1 volume)
6. 23-Aug-2023 FILED: Notice of Appearance; Certificate of Service: Notice of Appearance (Respondent ICA)
7. 24-Aug-2023 RECEIPT No.: 2023-00810 ; \$140.00, Authorization: #36009179265, Applied to: CITY OF TOLLESON/AZ MUNICIPAL RISK RETENTION POOL - Overpayment Class B (\$140.00) Paid for: Jardine Baker Hickman & Houston PLLC - By nCourt LLC
8. 24-Aug-2023 RECEIPT No.: 2023-00813 ; \$140.00, Authorization: #36009179265, Applied to: CITY OF TOLLESON/AZ MUNICIPAL RISK RETENTION POOL - Overpayment Class B (\$140.00) Paid for: Jardine Baker Hickman & Houston PLLC - By nCourt LLC (Memo: X-Ref: 2023-00810. Refund Needed)
9. 24-Aug-2023 VOID RECEIPT No.: 2023-00810 - \$-140.00, Authorization: #36009179265, - Applied to: CITY OF TOLLESON/AZ MUNICIPAL RISK RETENTION POOL - Overpayment Class B (\$-140.00) Paid for: Jardine Baker Hickman & Houston PLLC - By: nCourt LLC VOID Reason: X-Ref: 2023-00813. No memo included stating a need for a refund. ala
10. 25-Sep-2023 FILED: Opening Brief; Certificate of Service; Certificate of Service (Petitioner Pro Per)
[stricken per order filed 0/31/2024]
11. 25-Sep-2023 FILED: Consent for Electronic Distribution (Petitioner Pro Per)
12. 12-Oct-2023 FILED: Letter dated 10/12/23 to Jardine Baker Hickman & Houston PLLC from Court re: enclosing check #113456 in the amount of \$140.00 for refund of monies submitted in error
13. 2-Nov-2023 FILED: Motion To Dismiss And Motion For Procedural Order; Certificate of Service for Motion To Dismiss And Motion For Procedural Order (Respondent)
14. 2-Nov-2023 ORDERED: Vacating the 11/6/23 due date for the answering brief. The order ruling on the pending motion to dismiss will set a due date to file the answering brief if the motion is denied. Barbara Vidal Vaught ProTem Judge - Author
15. 27-Nov-2023 FILED: Rule 9 Amendment to Opening Brief/Complaint, Request Denial of Defendants Motion to Dismiss; Certificate of Service (Petitioner Pro Per)
16. 30-Nov-2023 FILED: Reply in Support of Motion to Dismiss and Motion for Procedural Order; Certificate of Service for Reply to Motion to Dismiss and Motion for Procedural Order (Respondent Employer/Carrier)
17. 5-Dec-2023 FILED: Response in Opposition to Petitioner's Rule 9 Amendment to Opening Brief/Complaint; Certificate of Service for Response in Opposition to Petitioner's Rule 9 Amendment to Opening Brief/Complaint (Respondent Employer/Carrier)
18. 21-Dec-2023 ORDERED: Motion to Dismiss And Motion For Procedural Order(Respondent Employer/Carrier) = DENIED without prejudice to respondents raising the arguments in the motion in their answering brief. FURTHER ORDERED: Denying petitioner's motion to amend the opening brief. FURTHER ORDERED: That the answering brief must be filed by 01/19/2024. Hon David B Gass - Author
19. 22-Dec-2023 FILED: Response to Defendant Opposition to Rule 9 Amendment and a Request for a Writ of Certiorari and Review De Novo; Certificate of Service (Petitioner Pro Per)
20. 26-Dec-2023 FILED: Request for Official Adjoiment of BCLM Claims 471892 & 471855; Certificate of Service (Petitioner Pro Per)
21. 27-Dec-2023 ORDERED: RULE 9 AMENDMENT TO OPENING BRIEF/COMPLAINT, Request Denial of Defendants Motion to Dismiss (Petitioner Pro Per) = affirming the court's 12/21/2023 order denying the motion to amend. FURTHER IS ORDERED: Denying any other affirmative relief petitioner requests in the document. Hon David B Gass - Author
22. 11-Jan-2024 ORDERED: Directing respondents to file a response to the request for adjoiment by 01/22/2024. Petitioner may then file a reply by 01/29/2024. FURTHER ORDERED: Vacating the 01/19/2024 due date for the answering brief. The order ruling on the pending motion will address the briefing schedule. Barbara Vidal Vaught ProTem Judge - Author
23. 18-Jan-2024 FILED: Response in Opposition to Request for Official Adjoiment of BCLM Claims 471892 & 471855; Certificate of Service for Response in Opposition to Request for Official Adjoiment of BCLM Claims 471892 & 471855 (Respondent Employeeer/Carrier)

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24. 29-Jan-2024 FILED: Response to Defendants Opposition to Adjoiment of BCLM Claims 471892 & 471855 (Reply); Certificate of Service; Exhibit (Request for Official Adjoiment of BCLM Claims 471892 & 471855); Exhibit (Notice of Appearance of Defense Counsel) (Petitioner Pro Per)
25. 31-Jan-2024 ORDERED: Request for Official Adjoiment of BCLM Claims 471892 & 471855 (Petitioner Pro Per) = GRANTED. Directing the Clerk of the Court to treat the "Request for Adjoiment of BCLM Claims 471892 and 471855", filed 12/26/2023, as a petition for special action review of the 11/27/2023 Decision Upon Review. FURTHER ORDERED: Granting petitioner's request for the court to join his requests for special action review of the separate ICA matters. After the Clerk of Court sets up the petition for special action review of the 11/27/2023 Decision Upon Review, the court will issue an order consolidating the two cases. FURTHER ORDERED: That within 10 days after the court assigns a case number to the special action arising from the 11/27/2023 Decision Upon Review and the required filing fee is paid, petitioner shall file a notice in this special action indicating the new case number. FURTHER ORDERED: Striking the opening brief filed on 09/25/2023. After this matter is consolidated with the new special action arising from the 11/27/2023 Decision Upon Review, the court will set a deadline to file a consolidated opening brief. FURTHER ORDERED: Staying this appeal pending further order of the court. FURTHER ORDERED: Directing the Clerk of the Court to reference this order in the electronic case management system. Hon David B Gass - Author
26. 4-Feb-2024 FILED: Request to Bifurcate Claim and Issue an Interlocutory Order to Stay the Fraudulent Misreputation and Bad Faith Acts by the Defendants, Equitably Tolling the Clock to a Future Date for the Original Case/Claim and/or to Bifurcate the New Case #1 CA-IC-23-0037, to Include a Fraud-based Discovery Ruling and Letter of Intent to Civilly Litigate if Needed to Retain my Guaranteed Federal and State Constituional Rights; Certificate of Service (Appellant Pro Per)
27. 6-Feb-2024 FILED: Motion for Reconsideration re: Joinder; Certificate of Service for Motion for Reconsideration re: Joinder (Respondent Employer/Carrier)
28. 6-Feb-2024 ORDERED: Motion for Reconsideration re: Joinder (Respondent Employer/Carrier) = DENYING the motion for reconsideration and clarifying the 01/31/2024 order as stated herein. Hon David B Gass - Author
29. 16-Feb-2024 FILED: Response in Opposition to Request to Bifurcate Claim and Issue an Interlocutory Order to Stay; Certificate of Service for Response in Opposition to Request to Bifurcate Claim and Issue an Interlocutory Order to Stay (Respondent Employer/Carrier)
30. 6-Mar-2024 ORDERED: Request to Bifurcate Claim and Issue an Interlocutory Order to Stay the Fraudulent Misreputation and Bad Faith Acts by the Defendants, Equitably Tolling the Clock to a Future Date for the Original Case/Claim and/or to Bifurcate the New Case #1 CA-IC-23-0037, to Include a Fraud-based Discovery Ruling and Letter of Intent to Civilly Litigate if Needed to Retain my Guaranteed Federal and State Constituional Rights (Petitioner Pro Per) = DENIED. FURTHER ORDERED: Lifting the stay of this special action. FURTHER ORDERED: Consolidating cases 1 IC 23-0013 and 1 IC 23-0037. Case no. 1 CA-IC 23-0013 is designated the primary number, and all future documents filed in this consolidated special action must use the caption shown on this order. FURTHER ORDERED: Petitioner shall file the opening brief in this consolidated special action by April 5, 2024. If petitioner does not file the opening brief timely, the court will dismiss this consolidated special action. FURTHER ORDERED: Petitioner must comply with Arizona Special Actions Rules of Procedure 10(e) and Arizona Rules of Civil Appellate Procedure 4(f) and (g) by serving respondents with all documents he subsequently files in this special action and including an accurate certificate of service on each document filed. If petitioner fails to do so, the court will consider imposing sanctions, which may include dismissing this special action. See ARCAP 25. Hon David B Gass - Author
31. 11-Mar-2024 FILED: Hearing Requist Re: ICA denial of Bad Faith Processing Dated: 12/20/2024; Certificate of Service; ICA Findings and Award Denying Bad Faith/ Unfair Claims Processing Filed: 12/20/2024 (Petitioner Pro Per)
32. 5-Apr-2024 FILED: Request to Extend Deadline for Brief Submittal; Certificate of Compliance; Certificate of Service (Petitioner)
33. 8-Apr-2024 ORDERED: Request to Extend Deadline for Brief Submittal (Petitioner) = GRANTED. Due date EXTENDED from Friday, 04-05-2024 to Monday, 04-22-2024. If the brief is nt timely filed, the court will dismiss this special action. Barbara Vidal Vaught ProTem Judge - Author
34. 22-Apr-2024 FILED: Appellant's [sic] Opening Brief; Certificate of Compliance; Certificate of Service (Petitioner Pro Per)
35. 3-Jun-2024 FILED: Answering Brief; Certificate of Compliance for Answering Brief; Certificate of Service for Answering Brief (Respondent Employer/Carrier)
36. 3-Jun-2024 FILED: Additional Hearing Exhibits; Certificate of Service; Untitled (Exhibit A); Untitled (Exhibit B) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
37. 3-Jun-2024 FILED: Untitled (Exhibit C); Certificate of Service; Untitled (Exhibit D); Untitled (Exhibit E) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
38. 3-Jun-2024 FILED: Untitled (Exhibit F); Certificate of Service; Untitled (Exhibit G); Untitled (Exhibit H) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]

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39. 3-Jun-2024 FILED: Untitled (Exhibit K); Certificate of Service; Untitled (Exhibit P); Untitled (Exhibit Q) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
40. 3-Jun-2024 FILED: Untitled (Exhibit R); Certificate of Service; Untitled (Exhibit U); Untitled (Exhibit V) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
41. 3-Jun-2024 FILED: Untitled (Exhibit KK); Certificate of Service; Untitled (Exhibit NN); Untitled (Exhibit PP) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
42. 3-Jun-2024 FILED: Untitled (Exhibit LLL); Certificate of Service; Untitled (Exhibit XXX); Untitled (Exhibit G1) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
43. 3-Jun-2024 FILED: Untitled (Exhibit N1); Certificate of Service; Untitled (Exhibit O1); Untitled (Exhibit P1) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
44. 3-Jun-2024 FILED: Untitled (Exhibit U1); Certificate of Service; Untitled (Exhibit V1); Untitled (Exhibit W1) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
45. 3-Jun-2024 FILED: Untitled (Exhibit Z1); Certificate of Service; Untitled (Exhibit A2); Untitled (Exhibit B2) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
46. 3-Jun-2024 FILED: Untitled (Exhibit C2); Untitled (Exhibit E2); Untitled (Exhibit G2); Untitled (Exhibit H2) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
47. 3-Jun-2024 FILED: Untitled (Exhibit I2); Certificate of Service; Untitled (Exhibit O2); Untitled (Exhibit U2) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
48. 3-Jun-2024 FILED: Untitled (Exhibit X2); Certificate of Service; Untitled (Exhibit Q2); Untitled (Exhibit N2) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
49. 3-Jun-2024 FILED: Untitled (Exhibit K2); Certificate of Service; Untitled (Exhibit L2); Untitled (Exhibit Z2) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
50. 3-Jun-2024 FILED: Untitled (Exhibit A3); Certificate of Service; Untitled (Exhibit C3); Untitled (Exhibit D3) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
51. 3-Jun-2024 FILED: Untitled (Exhibit G3); Certificate of Service; Untitled (Exhibit H3); Untitled (Exhibit I3) (Petitioner Pro Per)
[stricken per order filed on 06/04/2024]
52. 4-Jun-2024 FILED: Motion to Strike Exhibits filed June 3 2024; Certificate of Service for Motion to Strike (Respondent Employer/Carrier)
53. 4-Jun-2024 ORDERED: Striking documents filed by petitioner on 06/03/2024. Barbara Vidal Vaught ProTem Judge - Author
54. 4-Jun-2024 ORDERED: Motion to Strike Exhibits filed June 3 2024 (Respondent Employer/Carrier) = DENIED as moot. Barbara Vidal Vaught ProTem Judge - Author
55. 12-Jun-2024 FILED: ICA Bad Faith and Unfair Claims Processing BCLM Claims 471892 & 471855 (Motion to Supplement); Certificate of Service; Untitled (Exhibit); Untitled (Exhibit) (Appellant Pro Per)
56. 12-Jun-2024 FILED: Untitled (Exhibit); Certificate of Service; Untitled (Exhibit); Untitled (Exhibit) (Appellant Pro Per)
57. 12-Jun-2024 FILED: Untitled (Exhibit); Certificate of Service; Untitled (Exhibit); Untitled (Exhibit) (Appellant Pro Per)
58. 12-Jun-2024 FILED: Untitled (Exhibit); Certificate of Service; Untitled (Exhibit); Untitled (Exhibit) (Appellant Pro Per)
59. 23-Jun-2024 FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Petitioner Pro Per)
60. 25-Jun-2024 FILED: Response to Request to Supplemental with ICA Hearing Files; Certificate of Service for Response to Request to Supplement (Respondent)

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61. 8-Jul-2024 FILED: Motion to Strike Statements and Argument in Reply Brief; Certificate of Service for Motion to Strike Statements[sic] and Arguments in Reply Brief (Respondent Employer/Carrier)
62. 8-Jul-2024 ORDERED: ICA Bad Faith and Unfair Claims Processing BCLM Claims 471892 & 471855 (Motion to Supplement) (Appellant Pro Per) = DENIED. Steven C Lawrence ProTem Judge - Author
63. 9-Jul-2024 FILED: Response to Defendants Request to Deny Supplements with ICA Hearing Files; Certificate of Service; Affermative [sic] Defense 10-11-2022 Letter (Exhibit) (Petitioner Pro Per)
64. 9-Jul-2024 FILED: 7/8/2024 Before the Industrial Commission of Arizona; ICA Hearing #20221310329 (Certificate of Service); Untitled (Response Regarding Judge Hill's Findings); August 2, 2023 Letter to Tina Brown (Petitioner Pro Per)
65. 16-Jul-2024 ORDERED: deferring a ruling on the motion (to strike statements and arguments in reply brief) to the panel that considers this appeal on the merits. Steven C Lawrence ProTem Judge - Author
66. 25-Jul-2024 CLNDR: CONFERENCE, Department B, 9-24-24, COURTROOM 2.