

Court of Appeals, Division One

Special Action

1 CA-SA 24-0241

TOTAL RENAL v. HON MOSKOWITZ/BRACKMAN

Appellate Case Information

Case Filed: 12-Nov-2024
Case Closed:

Dept/Composition

Department E
Hon. Brian Y Furuya
Hon. James B Morse Jr.
Hon. David D Weinzeig

Side 1. TOTAL RENAL CARE, INC., d/b/a DESERT MOUNTAIN DIALYSIS CENTER, Petitioner

(Litigant Group) TOTAL RENAL

- Total Renal Care Inc
Desert Mountain Dialysis Center

Attorneys for: Petitioner

David S Cohen, Esq. (AZ Bar No. 16888)
Rita J Bustos, Esq. (AZ Bar No. 25956)

Side 2. THE HONORABLE FRANK W. MOSKOWITZ, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA,

Respondent Judge,

MELISSA BRACKMAN, the surviving wife, in her own right and on behalf of all statutory beneficiaries, and as Personal Representative of the ESTATE OF CHAD OWEN BRACKMAN, deceased,

Real Parties in Interest., Respondent

(Litigant Group) HON MOSKOWITZ

- Hon. Frank W Moskowitz, Respondent Judge

(Litigant Group) BRACKMAN

- Melissa Brackman, Real Party in Interest
ESTATE: Estate of Chad Owen Brackman, Real Party in Interest

Co-Counsel for: Real Parties in Interest Brackman

Larry E Coben, Esq. (AZ Bar No. 15673)
Jo Ann Niemi, Esq. (AZ Bar No. 20873)
David L Abney, Esq. (AZ Bar No. 9001)

(Litigant Group) SHEFALI GUPTA

- Shefali Gupta, Real Party in Interest

Attorneys for: Real Party in Interest Gupta

Renee M Coury, Esq. (AZ Bar No. 16046)
Brianna M Quinn, Esq. (AZ Bar No. 34170)

CASE STATUS

Mar 26, 2026....Pending in ASC

Apr 23, 2025....Reinstated Case

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2023-052656, Frank W Moskowitz, Authoring Judge of Order

DESCENDENT CASE(S)

ASC CV-24-0294-PR
ASC CV-26-0096-PR

PENDING MATTER

General Motion

Filed: 10-Mar-2026

Verified Statement of Costs (Petitioner)

2 CASE DECISIONS

13-Nov-2024 ORDER

Vacated

ORDERED: Combined Petition for Special Action and Appendix (Petitioner) = JURISDICTION DECLINED.

Filed: 13-Nov-2024

Mandate:

Decision Disposition

Jurisdiction Declined

Brian Furuya.....Author



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2 CASE DECISIONS

24-Feb-2026 MEMORANDUM DECISION

Brian Furuya.....Author
James Morse Jr.....Concur
Special Concurrence
David Weinzweig.....Concur

Filed: 24-Feb-2026

Mandate:

Table with 1 row and 1 column: Decision Disposition. Content: Jurisdiction Accepted, Relief Granted

34 PROCEEDING ENTRIES

- 1. 12-Nov-2024 FILED: Combined Petition for Special Action and Appendix; Certificate of Compliance; Combined Petition For Special Action And Appendix Party Contact Information (Petitioner)
2. 13-Nov-2024 FILED: Special Action Clerk Notice (Assigned to Dept E, Judges Furuya, Morse Jr., Weinzweig)
3. 13-Nov-2024 FILED: Special Action Stay Hearing Scheduling Requirements
4. 13-Nov-2024 ORDERED: Combined Petition for Special Action and Appendix (Petitioner) = JURISDICTION DECLINED. Hon Brian Y Furuya - Author
5. 18-Nov-2024 RECEIPT No.: 2024-01144 ; \$280.00, Authorization: #23020725204, Applied to: TOTAL RENAL - Class A Filing Fee (\$280.00) Paid for: Jones Skelton & Hochuli PLC - By nCourt LLC
6. 10-Dec-2024 FILED: Email Notice from ASC re: Petition for Review filed 12/09/2024; request for partial record
7. 12-Dec-2024 FILED: Letter forwarding partial record to Arizona Supreme Court
8. 2-Apr-2025 FILED: Letter from ASC, 4/2/25, re: Petition for Review GRANTED on 4/1/25; Vacating Court of Appeals' order declining jurisdiction and remanding back to the Court of Appeals for reconsideration
9. 2-Apr-2025 FILED: Amended Letter from ASC, 4/2/25, re: Petition for Review GRANTED on 4/1/25; Vacating Court of Appeals' order declining jurisdiction and remanding back to the Court of Appeals for reconsideration
10. 17-Apr-2025 ORDERED: Real Parties in Interest shall file a combined response to the petition for special action on or before 05/07/2025. The response's format and length shall comply with Arizona Rules of Procedure for Special Action ("Rules") 14. FURTHER ORDERED: Petitioner shall file a reply on or before 05/21/2025. The reply's format shall likewise comply with Rule 14, but it may dispense with a separate jurisdictional statement, statement of issues, or statement of facts. Further, the reply's length shall not exceed 7,000 words, excluding cover page, caption, date and signature blocks, table of contents and table of citations, and certificates of service and compliance. FURTHER ORDERED: The parties' briefing must expressly address the application of Restatement (Second) of Torts § 324A as discussed in Dabush v. Seacret Direct, LLC and Collette v. Tolleson Unified School District No. 214. FURTHER ORDERED: After 05/20/2025, the court will consider the record in this matter, including the filings made by the parties in response to this order, and enter any order it may find appropriate on the record in this matter, which may include a final resolution of this matter. Hon Brian Y Furuya - Author
11. 18-Apr-2025 FILED: Notice of Appearance of Attorney David L. Abney; Certificate of Service (Real Party in Interest)
12. 21-Apr-2025 FILED: Amended Notice of Appearance of Attorney David L. Abney; Certificate of Service (Real Party in Interest)
13. 23-Apr-2025 FILED: Arizona Supreme Court Mandate - Vacating COA1's order declining special action jurisdiction - Remanded to COA1
14. 24-Apr-2025 RECEIPT No.: 2025-00472 ; \$165.00, Authorization: #14007615699, Applied to: BRACKMAN - Class B Filing Fee (\$165.00) Paid for: Ahwatukee Legal Office PC - By nCourt LLC
15. 25-Apr-2025 FILED: Notice of Substitution of Counsel with Consent; Certificate of Service (Respondent)
16. 25-Apr-2025 FILED: Notice of Substitution of Counsel with Consent (Duplicate); Certificate of Service (Duplicate) (Real Party in Interest Gupta)
17. 1-May-2025 RECEIPT No.: 2025-00510 ; \$165.00, Authorization: # 21012305685, Applied to: SHEFALI GUPTA - Class B Filing Fee (\$165.00) Paid for: Campbell Yost Clare & Norell PC - By nCourt, LLC
18. 7-May-2025 FILED: Combined Response to the Petition for Special Action; Certificate of Compliance; Certificate of Service (Real Party Brackman)
19. 12-May-2025 FILED: Notice of Change of Firm Name; Certificate of Service (Real Party in Interest Gupta)
20. 21-May-2025 FILED: Joint Reply in Support of Petition for Special Action; Certificate of Service; Certificate of Compliance (Petitioner)
21. 27-May-2025 FILED: Appellee Shefali Gupta, M.D.'S Joinder in Petitioner Total Renal Care, Inc. D/B/A Desert Mountain Dialysis Center's Combined Petition for Special Action and Appendix, and Reply in Support of Same; Certificate of Service (Real Party in Interest Gupta)
22. 2-Jun-2025 RECEIPT No.: 2025-00625 ; \$165.00, Authorization: 53014939528, Applied to: SHEFALI GUPTA - Overpayment Class B (\$165.00) Paid for: Coury Krolls Dean & DaPena PC - By nCourt LLC (Memo: X-Ref: 2025-00510 Refund Needed)

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23.	4-Jun-2025	FILED: Request for Oral Argument; Certificate of Service (Petitioner)
24.	18-Jun-2025	FILED: Letter dated 06/18/2025 to Coury Krolls Dean & DaPena P.C. from Court re: enclosing check #114609 in the amount of \$165 for refund of monies submitted in error.
25.	25-Jun-2025	FILED: Appellee Shefali Gupta, M.D.'s Notice of Association of Counsel Within Law Firm; Certificate of Service (Real Party in Interest Gupta)
26.	8-Jan-2026	FILED: Request for Status; Certificate of Service (Petitioner)
27.	15-Jan-2026	ORDERED: Request for Oral Argument (Petitioner) = DENIED. We Advise the parties that a decision is forthcoming and will be issued in due course. Hon Brian Y Furuya - Author
28.	24-Feb-2026	MEMORANDUM DECISION (Jurisdiction Accepted, Relief Granted) Hon Brian Y Furuya - Author; Hon James B Morse Jr. - Concur; Hon James B Morse Jr. - Special Concurrence; Hon David D Weinzweig - Concur
29.	24-Feb-2026	FILED: Decision Distribution Notification
30.	10-Mar-2026	FILED: Joint Motion for Publication; Certificate of Service (Petitioner)
31.	10-Mar-2026	FILED: Verified Statement of Costs; Certificate of Service (Petitioner)
32.	18-Mar-2026	ORDERED: Joint Motion for Publication (Petitioner) = DENIED. Hon Brian Y Furuya - Author
33.	1-Apr-2026	FILED: Email Notice from ASC re: Petition for Review filed 03/26/2026; request for partial record
34.	1-Apr-2026	FILED: Letter forwarding partial record to Arizona Supreme Court