

**Court of Appeals, Division One**

**Tax Appeal**

**1 CA-TX 20-0004**

**SOUTH POINT v. ADOR, et al.**

**Appellate Case Information**

Case Filed: 1-May-2020

Case Closed: 7-Dec-2021

Reinstated x 1: 3-Jun-2022 **Decision**

Re-Closed:

**Dept/Composition**

**Department A**

Hon. Paul J McMurdie  
Hon. Cynthia J Bailey  
Hon. D Steven Williams

**Side 1. SOUTH POINT ENERGY CENTER LLC, Plaintiff/Appellant**

**(Litigant Group) SOUTH POINT ENERGY CENTER LLC**

- South Point Energy Center LLC

**Co-Counsel for: Plaintiff/Appellant**

Patrick Derdenger, Esq. (AZ Bar No. 05874)  
Karen M Jurichko Lowell, Esq. (AZ Bar No. 31620)  
Bennett Evan Cooper, Esq. (AZ Bar No. 10819)  
Vail Cloar, Esq. (AZ Bar No. 32011)

**Side 2. ARIZONA DEPARTMENT OF REVENUE, et al., Defendant/Appellee**

**(Litigant Group) ADOR/MOHAVE COUNTY**

- Arizona Department of Revenue
- Mohave County

**Co-Counsel for: Defendants/Appellees**

Kimberly J Cygan, Esq. (AZ Bar No. 13977)  
Jerry A Fries, Esq. (AZ Bar No. 11788)  
Cameron C Artigue, Esq. (AZ Bar No. 11376)  
Christopher L Hering, Esq. (AZ Bar No. 28169)

**CASE STATUS**

May 20, 2024....Pending in ASC

PREDECESSOR CASE(S) +	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
ATC TX2013-000522	Illegally Collected Property Tax		Christopher Whitten, Authoring Judge of Order		
ATC TX2014-000451					
ATC TX2015-000850					
ATC TX2016-001228					

**DESCENDENT CASE(S)**

ASC CV-21-0130-PR  
ASC CV-24-0076-PR

**2 CASE DECISIONS**

**27-Apr-2021 OPINION**

Opinion Vacated in Part by ASC Opinion filed 04/26/2022

Filed: 27-Apr-2021

Mandate:

Cynthia Bailey.....Author  
Paul McMurdie.....Concur  
Lawrence Winthrop.....Concur

Decision Disposition
<b>Vacated</b>
<b>Remanded</b>

**19-Mar-2024 OPINION**

Cynthia Bailey.....Author  
Paul McMurdie.....Concur  
D Williams.....Concur

Filed: 19-Mar-2024

Mandate:

Decision Disposition
<b>Affirmed</b>

**69 PROCEEDING ENTRIES**

1. 1-May-2020 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 04/03/20

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2. 1-May-2020 FILED: e-Record on Appeal TX2013-000522:  
Instruments/Minute Entries  
Exhibits: None
3. 1-May-2020 FILED: e-Record on Appeal TX2014-000451:  
Combined Minute Entries/Instruments  
Exhibits: None
4. 1-May-2020 FILED: e-Record on Appeal TX2015-000850:  
Combined Minute Entries/Instruments  
Exhibits: None
5. 1-May-2020 FILED: e-Record on Appeal TX2016-001228:  
Combined Minute Entries/Instruments  
Exhibits: None
6. 1-May-2020 FILED: e-Record on Appeal TX2017-001744:  
Combined Minute Entries/Instruments  
Exhibits: None
7. 1-May-2020 FILED: e-Record on Appeal TX2018-000019:  
Combined Minute Entries/Instruments  
Exhibits: None
8. 1-May-2020 FILED: e-Record on Appeal TX2019-000086:  
Combined Minute Entries/Instruments  
Exhibits: None
9. 5-May-2020 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief due
10. 19-May-2020 FILED: Appellant's Notice of Payment of Docketing Fee; Certificate of Service for Appellant's Notice of Payment of Docketing Fee (Appellant)
11. 26-May-2020 RECEIPT No.: 2020-00632 ; \$280.00, Authorization: #47012573038, Applied to: SOUTH POINT ENERGY CENTER LLC - Class A Filing Fee (\$280.00) Paid for: Dickinson Wright PLLC - By nCourt LLC
12. 26-May-2020 FILED: Case Management Statement (Appellant)
13. 29-Jun-2020 FILED: Appellant's Unopposed Motion for Procedural Order Extending Time to File Opening Brief; Certificate of Service for Unopposed Motion for Procedural Order Extending Time to File Opening Brief (Appellant)
14. 30-Jun-2020 ORDERED: Appellant's Unopposed Motion for Procedural Order Extending Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 07-06-2020 to Wednesday, 08-05-2020. Melina Brill ProTem Judge - Author
15. 5-Aug-2020 FILED: Opening Brief; Certificate of Compliance for Opening Brief; Certificate of Service for Opening Brief (Appellant)
16. 14-Sep-2020 FILED: Defendants/Appellees' Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
17. 14-Sep-2020 FILED: Defendants/Appellees' Appendix to Answering Brief (Appellee)
18. 29-Sep-2020 FILED: Notice of Errata; Certificate of Service (Appellee)
19. 1-Oct-2020 FILED: Appellant's Unopposed Motion for Procedural Order Extending Time to File Reply Brief; Certificate of Service for Appellant's Unopposed Motion for Procedural Order Extending Time to File Reply Brief (Appellant)
20. 2-Oct-2020 ORDERED: Appellant's Unopposed Motion for Procedural Order Extending Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 10-05-2020 to Wednesday, 11-04-2020. Melina Brill ProTem Judge - Author
21. 28-Oct-2020 FILED: Appellant's Unopposed Motion for Procedural Order Further Extending Time to File Reply Brief; Certificate of Service for Appellant's Unopposed Motion for Procedural Order Further Extending Time to File Reply Brief (Appellant)
22. 29-Oct-2020 ORDERED: Appellant's Unopposed Motion for Procedural Order Further Extending Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 11-04-2020 to Monday, 11-16-2020. Melina Brill ProTem Judge - Author
23. 16-Nov-2020 FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
24. 24-Nov-2020 FILED: Appellant's Request for Oral Argument; Certificate of Service Appellant's Request for Oral Argument (Appellant)

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25. 3-Dec-2020 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
26. 7-Dec-2020 FILED: Brief of Amici Curiae Fort Mojave Indian Tribe; Cert. of Compliance; Cert. of Service (Amicus Curiae)
27. 14-Dec-2020 FILED: Supplemented Superior Court e-Record with Revised Index of Record
28. 17-Dec-2020 ORDERED: Appellant's Request for Oral Argument (Appellant) = GRANTED. Hon Peter B Swann - Author
29. 24-Dec-2020 CLNDR: MONTHLY COURT CASE CALENDAR, Department A, 2-23-21, 11:00 am, COURTROOM 1.
30. 28-Dec-2020 FILED: Defendants/Appellees' Response to Amici Curiae Brief of Fort Mojave Indian Tribe, et al.; Certificate of Compliance; Certificate of Service (Appellee)
31. 13-Jan-2021 FILED: Notice of Supplemental Citation of Legal Authority; Certificate of Service (Appellee)
32. 13-Jan-2021 FILED: Appendix 1 (Appellee)
33. 15-Jan-2021 FILED: Notice of Oral Argument
34. 28-Jan-2021 FILED: Return Receipt for Notice of Oral Argument, signed by Kimberly Cygan on 1/15/21 (Appellee)
35. 28-Jan-2021 FILED: Certificate of Service (Appellee)
36. 28-Jan-2021 FILED: Return Receipt for Notice of Oral Argument signed by Bennett E Cooper, on 12/17/20; Certificate of Service (Appellant)
37. 10-Feb-2021 FILED: Appellant's Notice of Supplemental Authority; Certificate of Service (Appellant)
38. 2-Mar-2021 FILED: Sign-in Sheet/Case is Under Advisement (Dept A)
39. 27-Apr-2021 OPINION (Vacated, Remanded) Hon Cynthia J Bailey - Author; Hon Paul J McMurdie - Concur; Hon Lawrence F Winthrop - Concur
40. 27-Apr-2021 FILED: Opinion Distribution List
41. 18-May-2021 FILED: ASC Order filed 5/18/21 Re: Granting motion/Petition for Review shall be filed on/before June 29, 2021
42. 30-Jun-2021 FILED: Email Notice from ASC re: Petition for Review filed 6/29/21; request for partial record
43. 30-Jun-2021 FILED: Letter forwarding partial record to Arizona Supreme Court
44. 8-Nov-2021 FILED: Letter from ASC dated 11/08/2021 re: Petition for Review = CONTINUED
45. 7-Dec-2021 FILED: Letter from ASC, 12/07/2021, re: Petition for Review GRANTED on 12/07/2021
46. 10-Dec-2021 FILED: Letter forwarding partial record to Arizona Supreme Court
47. 3-Jun-2022 FILED: Arizona Supreme Court Mandate (COA1 Opinion Vacated in part; Remanded to Court of Appeals) (Amended per ASC Mandate filed 06/07/2022)
48. 7-Jun-2022 FILED: Amended Arizona Supreme Court Mandate (COA1 Opinion Vacated in part; Remanded to Court of Appeals)
49. 2-Aug-2022 FILED: Memorandum: Judge Williams for Judge Winthrop (Chief Judge Cattani)
50. 8-Aug-2022 ORDERED: counsel for each party shall file simultaneous supplemental briefs on the issue presented, and any additional issues they believe are fairly encompassed within the supreme court's remand order, no later than September 12, 2022. FURTHER ORDERED: counsel for each party may file a response brief as to the opposing party's brief and any amicus brief no later than October 3, 2022. FURTHER ORDERED: upon submission of the briefs ordered above, this court shall re-conference the case. Hon Cynthia J Bailey - Author
51. 12-Sep-2022 FILED: Supplemental Brief of South Point Energy Center LLC Regarding Bracker Preemption; Certificate of Compliance for Supplemental Brief; Certificate of Service for Supplemental Brief; Appendix A (Appellant)
52. 12-Sep-2022 FILED: Appellees' Supplemental Brief; Certificate of Compliance for Supplemental Brief; Certificate of Service for Appellees' Supplemental Brief (Appellees)
53. 12-Sep-2022 FILED: Notice of Appearance; Certificate of Service for Notice of Appearance (Appellees)
54. 28-Sep-2022 FILED: Motion for Procedural Order to Extend Time to Submit Response to Supplemental Brief; Certificate of Service for Appellees' Motion for Procedural Order to Extend Time to Submit Response to Supplemental Brief (Appellee)

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**69 PROCEEDING ENTRIES**

55. 29-Sep-2022 FILED: Motion for Procedural Order to Extend Time to Submit Response to Supplemental Brief (Duplicate); Certificate of Service for Appellees' Motion for Procedural Order to Extend Time to Submit Response to Supplemental Brief (Duplicate) (Appellee)
56. 30-Sep-2022 ORDERED: Motion for Procedural Order to Extend Time to Submit Response to Supplemental Brief (Appellee) = GRANTED/extending time in which to file the response to supplemental brief to/including October 13, 2022. Hon Cynthia J Bailey - Author
57. 13-Oct-2022 FILED: South Point Energy Center LLC's Response to Defendants' Supplemental Brief; Certificate Of Compliance For South Point Energy Center LLC's Response To Defendants' Supplemental Brief; Certificate Of Service For South Point Energy Center LLC's Response To Defendants' Supplemental Brief (Appellant)
58. 13-Oct-2022 FILED: Appellees' Supplemental Response Brief; Certificate Of Compliance For Appellees' Supplemental Response Brief; Certificate Of Service For Appellees' Supplemental Response Brief (Appellee)
59. 1-Nov-2022 ORDERED: Setting conference in this matter before Department A for 02/09/2023. Hon Cynthia J Bailey - Author
60. 31-Dec-2022 FILED: Request for Oral Argument; Certificate of Service for Request for Oral Argument (Appellant)
61. 19-Jan-2023 ORDERED: Request for Oral Argument (Appellant) = GRANTED and setting oral argument in this matter on 02/09/2023, at 11:00 a.m. in Courtroom 1. Hon Cynthia J Bailey - Author
62. 1-Feb-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Cameron Artigue on 01/19/2023 (Appellee)
63. 8-Feb-2023 FILED: Return Receipt for Notice of Oral Argument, signed by Bennett Cooper on 01/19/2023 (Appellant)
64. 9-Feb-2023 FILED: Sign-in Sheet/Case is Under Advisement as of 02/09/2023
65. 22-Feb-2023 FILED: Notice of Change of Counsel within Firm; Certificate Of Service Re Notice Of Change Of Counsel Within Firm (Appellee)
66. 19-Mar-2024 OPINION (Affirmed) Hon Cynthia J Bailey - Author; Hon Paul J McMurdie - Concur; Hon D Steven Williams - Concur
67. 19-Mar-2024 FILED: Decision Distribution Notification
68. 16-Apr-2024 FILED: ASC Order extending the time to file a Petition for Review to 5/20/24
69. 20-May-2024 FILED: Email Notice from ASC re: Petition for Review filed 05/20/24; request for partial record
70. 22-May-2024 FILED: Letter forwarding partial record to Arizona Supreme Court