

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-23-0164-PR

CENTERPOINT v COMMONWEALTH

Appellate Case Information

Case Filed: 27-Jun-2023
 Case Closed:

Dept/Composition

En Banc
 Hon. Ann A. Scott Timmer
 Hon. John R Lopez
 Hon. Robert Brutinel
 Hon. Clint Bolick
 Hon. James P Beene
 Hon. William G Montgomery
 Hon. Rebecca White Berch

Side 1. CENTERPOINT MECHANIC LIEN CLAIMS, LLC, Plaintiff/Appellant/Appellee

(Litigant Group) CENTERPOINT MECHANIC LIEN CLAIMS, LLC

- Centerpoint Mechanic Lien Claims LLC

Attorneys for: Plaintiff/Appellant/Appellee

Richard M Lorenzen, Esq. (AZ Bar No. 6787)

Side 2. COMMONWEALTH LAND TITLE INSURANCE COMPANY, Defendant/Appellee/Appellant

(Litigant Group) COMMONWEALTH LAND TITLE INSURANCE COMPANY

- Commonwealth Land Title Insurance Co

Attorneys for: Defendant/Appellee/Appellant

Robert R Berk, Esq. (AZ Bar No. 10162)
 Charles M Callahan, Esq. (AZ Bar No. 14984)
 David M Satnick, Esq. (NY Bar No. 1053222)
 Eileen Dennis GilBride, Esq. (AZ Bar No. 9220)

Side 3. AMERICAN LAND TITLE ASSOCIATION, Amicus Curiae

(Litigant Group) AMERICAN LAND TITLE ASSOCIATION

- American Land Title Association

Attorneys for: Amicus Curiae

Matthew G Kleiner, Esq. (AZ Bar No. 24275)

CASE STATUS

May 7, 2024.....At Issue

May 7, 2024.....Oral Argument Granted

Jun 27, 2023.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CV 21-0039					
↪ MAR CV2011-008600	Breach of Contract; Declaratory Judgment		Christopher Whitten, Authoring Judge of Order Comments: (none)		

35 PROCEEDING ENTRIES

- 27-Jun-2023 FILED: Defendant/Appellee/Appellant's Motion for Procedural Order to Extend Time to File Petition for Review; Certificate of Service (Defendant/Appellee/Appellant Commonwealth)
- 27-Jun-2023 FILED: Letter to Robert R. Berk (Verification of Pro Hac Vice Status for David M. Satnick/ Helen Gavaris)
- 27-Jun-2023 On June 27, 2023, Defendant Commonwealth filed "Defendant/Appellee/Appellant's Motion for Procedural Order to Extend Time to File Petition for Review."

IT IS ORDERED granting a first extension of time to file the petition for review on or before August 7, 2023. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the petition for review is not filed by August 7, 2023. (Tracie K. Lindeman, Clerk)
- 21-Jul-2023 FILED: Notice of Filing Confirmation of Pro Hac Vice Status; Certificate of Service (Defendant/Appellee/Appellant Commonwealth)
- 7-Aug-2023 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Defendant/Appellee/Appellant Commonwealth)
- 8-Aug-2023 FILED: Record From CofA: Electronic Record
- 10-Aug-2023 FILED: Plaintiff/Appellant/Appellee's Motion for Procedural Order to Extend Time to File Cross-Petition for Review and Response to Petition for Review; Certificate of Service (Plaintiff/Appellant/Appellee Centerpoint)

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8. 11-Aug-2023 Centerpoint Mechanic having filed, on August 10, 2023, "Plaintiff/Appellant/Appellee's Motion for Procedural Order to Extend Time to File Cross-Petition for Review and Response to Petition for Review,"
- IT IS ORDERED granting a first extension of time to file the cross-petition for review on or before September 21, 2023.
- IT IS FURTHER ORDERED granting a first extension of time to file the response to petition for review on or before October 6, 2023. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman, Clerk)
9. 15-Aug-2023 RECEIPT No.: 2023-00600 ; \$280.00, Authorization: 83376487536377063, Applied to: COMMONWEALTH LAND TITLE INSURANCE COMPANY - Class A Filing Fee (\$280.00) Paid for: COMMONWEALTH LAND TITLE INSURANCE COMPANY - By nCourt LLC
10. 21-Sep-2023 FILED: Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Plaintiff/Appellant/Appellee Centerpoint)
11. 27-Sep-2023 RECEIPT No.: 2023-00649 ; \$280.00, Authorization: 8474095596792606, Applied to: CENTERPOINT MECHANIC LIEN CLAIMS, LLC - Class A Filing Fee (\$280.00) Paid for: CENTERPOINT MECHANIC LIEN CLAIMS, LLC - By nCourt LLC
12. 6-Oct-2023 FILED: Response to Petition for Review; Certificate of Service; Certificate of Compliance (Plaintiff/Appellant/Appellee Centerpoint)
13. 13-Oct-2023 FILED: Defendant/Appellee/Appellant's Motion for Procedural Order to Extend Time to File Response to Cross-Petition for Review; Certificate of Service (Defendant/Appellee/Appellant Commonwealth)
14. 19-Oct-2023 Defendant/Appellee/Appellant Commonwealth's "Motion for Procedural Order to Extend Time to File Response to Cross-Petition for Review" having been filed on October 13, 2023,
- IT IS ORDERED granting Commonwealth a first extension of time until and including November 21, 2023 to file the response to the cross-petition for review filed on September 21, 2023. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman, Clerk)
15. 21-Nov-2023 FILED: Commonwealth Land Title Insurance Company's Response to Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Defendant/Appellee/Appellant Commonwealth)
16. 29-Dec-2023 FILED: Notice of Change of Law Firm Affiliation; Certificate of Service (Plaintiff/Appellant/Appellee Centerpoint)
17. 7-May-2024 ORDERED: Petition for Review = GRANTED as to both issues. However, the first issue is rephrased as follows:
- "In this first-party title insurance case, the insured lenders stipulated in a Morris agreement that their deeds of trust on the property were inferior to competing mechanic's liens, and to the amount the lien claimants would receive from the sale of the property to satisfy their liens. The insurer does not challenge these stipulations but contends there is no coverage because the insureds were fully repaid. Can the insurer contest coverage for the insured lenders' title insurance claims based on policy provisions stating that the insurer's liability for loss or damage shall not exceed the indebtedness owed to the insured and stating that there is no coverage for title defects or liens resulting in no loss to the insured ?"
- FURTHER ORDERED: Cross-Petition for Review = GRANTED.
- FURTHER ORDERED: The case shall be set for oral argument.
- FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than May 28, 2024. Any amicus briefs are due on or before June 11, 2024 and any responses to amicus briefs are due on or before July 1, 2024. Any amicus briefs or responses may not exceed 20 pages in length.
- FURTHER ORDERED: Request for Attorneys' Fees (Plaintiff/Appellant/Appellee Centerpoint) = CONTINUED.
- Justice King did not participate in the determination of this matter.
18. 9-May-2024 FILED: Joint Request for Extension of Time to File Supplemental Briefs; Certificate of Service (Appellee Centerpoint/Appellant Commonwealth)
19. 10-May-2024 On May 9, 2024, the parties filed a "Joint Request for Extension of Time to File Supplemental Briefs." Upon consideration,
- IT IS ORDERED granting the motion. Parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than June 27, 2024. Any amicus briefs are due on or before July 11, 2024, and any responses to amicus briefs are due on or before July 31, 2024. Any amicus briefs or responses may not exceed 20 pages in length. (Hon. Robert Brutinel)
20. 15-May-2024 NOTICE OF ORAL ARGUMENT: Set for Tuesday, September 24, 2024 at 10:15 A.M. (twenty [20] minutes per side).

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21. 16-May-2024 FILED: Notice of Acknowledgment of Oral Argument (Robert R. Berk will argue) (Defendant/Appellee/Appellant Commonwealth)
22. 17-May-2024 FILED: Notice of Acknowledgment of Oral Argument (Richard Lorenzen will argue) (Plaintiff/Appellant/Appellee Centerpoint)
23. 29-May-2024 FILED: Record From CofA: Entire Electronic Record

ORDER: Additional Record on Appeal:
Exhibits: Hearing Date 12/2/19 -List and # 7, 8, 10, 18, 21, 22, 23, 24, 25, 26, 28, 32, 51, 52, 53, 54, 62, 64, 67, 68, 71, 75, 78, 81, 84, 86, 87, 88, 92, 93, 110, 112, 114, 118, 119, 120, 122, 124, 125, 126, 130, 131, 133, 135, 136, 137, 138 in a white box; Sealed Items: 5/27/15 CD of 50 documents identified in centerpoint amended complaint in manila envelope; Filed Date 7/2/15 Documents of CMLC 2nd list of 50 documents in manila envelope; Filed Date 8/31/15 -Cd of Two Voume Production in manila envelope; all in the same box
24. 27-Jun-2024 FILED: Respondent and Cross-Petitioner Centerpoint Mechanic Lien Claims, LLC's Supplemental Brief; Certificate of Service; Certificate of Compliance (Plaintiff/Appellant/Appellee Centerpoint)
25. 27-Jun-2024 FILED: Commonwealth Land Title Insurance Company's Supplemental Brief; Certificate of Service; Certificate of Compliance (Defendant/Appellee/Appellant Commonwealth)
26. 5-Jul-2024 FILED: Notice of Errata Regarding Supplemental Brief; Certificate of Service (Plaintiff/Appellant/Appellee Centerpoint)
27. 8-Jul-2024 FILED: Request for Extension of Time to File Amicus Briefs; Certificate of Service (Defendant/Appellee/Appellant Commonwealth)
28. 9-Jul-2024 Defendant Commonwealth filed a "Request for Extension of Time to File Amicus Briefs" on July 8, 2024. Pursuant to Arizona Rules of Civil Appellate Procedure, Rule 6(b), a motion for a procedural order must include the words, "Motion for Procedural Order." Therefore,

IT IS ORDERED the motion is denied without prejudice to Defendant's ability to file a motion in compliance with ARCAP 6(b). This matter is subject to dismissal if a compliant motion or petition for review is not filed by July 15, 2024. (Tracie K. Lindeman, Clerk)
29. 9-Jul-2024 FILED: Motion for Procedural Order Extending Time to File Amicus Briefs; Certificate of Service (Defendant/Appellee/Appellant Commonwealth)
30. 10-Jul-2024 Justice Kathryn H. King is recused and will not participate in the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Honorable Rebecca White Berch, Justice (Retired) of the Arizona Supreme Court is designated to sit on the case until it is finally determined. (Hon. Ann A. Scott Timmer)
31. 10-Jul-2024 A "Motion for Procedural Order Extending Time to File Amicus Briefs" (Defendant Commonwealth) having been filed on July 9, 2024,

IT IS ORDERED granting the motion. Any amicus briefs are due on or before August 12, 2024, and any responses to amicus briefs are due on or before September 11, 2024. Any amicus briefs or responses may not exceed 20 pages in length. (Hon. Ann A. Scott Timmer)
32. 9-Aug-2024 FILED: Amicus Curiae Brief of American Land Title Association in Support of Commonwealth Land Title Insurance Company's Petition for Review; Certificate of Service; Certificate of Compliance (Amicus American Land Title)
33. 9-Aug-2024 FILED: (Copy of) Order (ASC) Filed 5/10/24; (Copy of) Order (ASC) Filed 7/10/24 (Amicus American Land Title)
34. 12-Aug-2024 FILED: Motion for Permission to File Amicus Curiae Brief of American Land Title Association in Support of Commonwealth Land Title Insurance Company's Petition for Review; Certificate of Service; Exhibit 1 (Amicus American Land Title)
35. 14-Aug-2024 On August 12, 2024, Amicus American Land Title filed a "Motion for Permission to File Amicus Curiae Brief of American Land Title Association in Support of Commonwealth Land Title Insurance Company's Petition for Review," having previously filed the proposed amicus brief on August 9, 2024. After consideration,

IT IS ORDERED the "Motion for Permission to File Amicus Curiae Brief of American Land Title Association in Support of Commonwealth Land Title Insurance Company's Petition for Review" is granted. The brief shall be filed as of August 9, 2024. (Hon. Ann A. Scott Timmer)