

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-25-0079-PR

SIMMS v ARIZONA RACING COMMISSION et al

Appellate Case Information

Case Filed: 27-Mar-2025
Case Closed:

Dept/Composition

En Banc
Hon. Ann A. Scott Timmer
Hon. John R Lopez
Hon. Clint Bolick
Hon. James P Beene
Hon. Kathryn H. King
Hon. Maria Elena Cruz
Hon. Michael F Kelly

Side 1. RONALD A. SIMMS, Plaintiff/Appellant/Cross-Appellee

(Litigant Group) RONALD A. SIMMS

- Ronald A Simms

Attorneys for: Plaintiff/Appellant/Cross-Appellee

Dominic Emil Draye, Esq. (AZ Bar No. 33012)
Matthew P Hoxsie, Esq. (AZ Bar No. 34952)
Nathan J Novak, Esq. (CA Bar No. 240473)

Side 2. ARIZONA DEPARTMENT OF GAMING, Defendant/Appellee

(Litigant Group) ARIZONA DEPARTMENT OF GAMING

- Arizona Department of Gaming

Attorneys for: Defendant/Appellee

John G Kerkorian, Esq. (AZ Bar No. 12224)
Michael Stephen Myers, Esq. (AZ Bar No. 29978)

Side 3. JEREMY E. SIMMS, et al., Defendant/Appellee/Cross-Appellant

(Litigant Group) JEREMY E. SIMMS, et al.

- Jeremy E Simms
- T P Racing LLLP
- Bell Racing LLC

Attorneys for: Defendant/Appellee/Cross-Appellant

James M Torre, Esq. (AZ Bar No. 17523)
Michael C Manning, Esq. (AZ Bar No. 16255)

(Litigant Group) ARIZONA RACING COMMISSION

- Arizona Racing Commission

Attorneys for: Defendant/Appellee/Cross-Appellant

Christopher L Hering, Esq. (AZ Bar No. 28169)
Cameron C Artigue, Esq. (AZ Bar No. 11376)

Side 4. PACIFIC LEGAL FOUNDATION, Amicus Curiae

(Litigant Group) PACIFIC LEGAL FOUNDATION

- Pacific Legal Foundation

Attorneys for: Amicus Curiae

Aditya Dynar, Esq. (AZ Bar No. 31583)

Side 5. ILAN WURMAN, Amicus Curiae

(Litigant Group) ILAN WURMAN

- Ilan Wurman
AZ Bar No. 34974

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Attorneys for: Amicus Curiae

Ilan Wurman, Esq. (AZ Bar No. 34974)

Side 6. ARIZONA ATTORNEY GENERAL'S OFFICE, Amicus Curiae

(Litigant Group) ARIZONA ATTORNEY GENERAL'S OFFICE

- Arizona Attorney General's Office

Attorneys for: Amicus Curiae

Joshua D Bendor, Esq. (AZ Bar No. 31908)
Luci Danielle Davis, Esq. (AZ Bar No. 35347)
Kathryn E Boughton, Esq. (AZ Bar No. 36105)

CASE STATUS

May 14, 2026...Decision Rendered

Nov 4, 2025.....Oral Argument Granted

Oct 6, 2025.....Continued

Mar 27, 2025....Pending

PREDECESSOR CASE (S)

PREDECESSOR CASE (S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CV 23-0139					
↪ MAR LC2016-000505-001	Judicial Review of Administrative Decision		Timothy J Thomason, Authoring Judge of Order Comments: (none)		

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CASE DECISION

14-May-2026 **OPINION**

* For the foregoing reasons, we vacate the court of appeals' entry of judgment in Ron's favor, vacate its opinion, and reverse the superior court's ruling affirming the Commission's decision. Because neither the court of appeals nor the superior court ap

Filed: **14-May-2026**

Mandate:

Decision Disposition

CofA Vacated
Reversed
Affirmed

John Lopez.....Author
Ann Timmer.....Concur
Clint Bolick.....Concur
James Beene.....Concur
Kathryn King.....Concur
Maria Cruz.....Concur
Michael Kelly.....Concur

48 PROCEEDING ENTRIES

1. 27-Mar-2025 FILED: Joint Motion for Procedural Order Extending Time to File Petition for Review; Certificate of Service (Defendants Arizona Department of Gaming/J. Simms, et al.)
2. 31-Mar-2025 A "Joint Motion for Procedural Order Extending Time to File Petition for Review" (Defendants Arizona Department of Gaming/J. Simms, et al.) having been filed on March 27, 2025,

IT IS ORDERED granting a first extension of time to file the petition for review on or before May 19, 2025. 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 May 19, 2025. (Tracie K. Lindeman, Clerk)
3. 19-May-2025 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Defendant AZ Racing)
4. 19-May-2025 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Defendants J. Simms, et al.)
5. 19-May-2025 FILED: Appendix; Certificate of Service (Defendants J. Simms, et al.)
6. 21-May-2025 FILED: Record from CofA: Electronic Record
7. 4-Jun-2025 RECEIPT No.: 2025-00154 ; \$330.00, Authorization: 8478386568067002, Applied to: JEREMY E. SIMMS, et al. - Class A Filing Fee (\$330.00) Paid for: JEREMY E. SIMMS, et al. - By nCourt LLC
8. 18-Jun-2025 FILED: Response in Opposition to Petitions for Review; Certificate of Service; Certificate of Compliance (Plaintiff R. Simms)
9. 24-Jun-2025 RECEIPT No.: 2025-00179 ; \$165.00, Authorization: 8214714068040683, Applied to: RONALD A. SIMMS - Class B Filing Fee (\$165.00) Paid for: RONALD A. SIMMS - By nCourt LLC
10. 29-Aug-2025 FILED: Notice of Change of Law Firm Affiliation and Address; Certificate of Service (Defendants J. Simms, et al.)
11. 16-Sep-2025 FILED: Letter to the Court (Plaintiff R. Simms)
12. 6-Oct-2025 ORDERED: Petition for Review (Defendant AZ Racing) = CONTINUED.

FURTHER ORDERED: Petition for Review (Defendants Simms, et al.) = CONTINUED.

Justice Montgomery did not participate in the determination of this matter.
13. 10-Oct-2025 FILED: Notice of Supplemental Authority ARCAP 17 (Plaintiff R. Simms)

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14. 4-Nov-2025 ORDERED: Petition for Review (Arizona Racing Commission) = GRANTED.
- FURTHER ORDERED: Petition for Review (TP Racing, LLLP., et al.) = GRANTED as to Issue 1 only
- 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 November 24, 2025. Any amicus briefs are due on or before December 9, 2025, and any responses to amicus briefs are due on or before December 29, 2025. Any amicus briefs or responses may not exceed 20 pages in length.
- Justice Montgomery did not participate in the determination of this matter.
15. 24-Nov-2025 FILED: Appellees/Cross-Appellants TP Racing, L.L.L.P., Jeremy Simms, and Bell Racing, LLLC's Supplemental Brief; Certificate of Service; Certificate of Compliance (Defendants J. Simms, et al.)
16. 24-Nov-2025 FILED: Respondent Ron Simms' Supplemental Brief; Certificate of Service; Certificate of Compliance (Plaintiff R. Simms)
17. 24-Nov-2025 FILED: Supplemental Brief of the Arizona Racing Commission; Certificate of Service; Certificate of Compliance (Defendant AZ Racing)
18. 24-Nov-2025 FILED: Appendix; Certificate of Service (Defendant AZ Racing)
19. 24-Nov-2025 FILED: Record From CofA: Entire Remaining Electronic Record
20. 25-Nov-2025 NOTICE OF ORAL ARGUMENT: Set for Tuesday, January 20, 2026 at 10:15 A.M. (20 minutes per side).
21. 25-Nov-2025 FILED: Notice of Acknowledgment of Oral Argument (Dominic E. Draye will argue) (Plaintiff R. Simms)
22. 25-Nov-2025 FILED: Notice of Acknowledgment of Oral Argument (Christopher Hering will argue) (Defendant AZ Racing)
23. 25-Nov-2025 FILED: Notice of Acknowledgment of Oral Argument (James Torre will argue) (Defendants J. Simms, et al)
24. 1-Dec-2025 FILED: Notice of Acknowledgment of Oral Argument (None to Argue) (Defendant AZ Racing)
25. 25-Nov-2025 FILED: Remaining Physical Record from CofA
- Physical Exhibits: Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 1 Thru 5 in box 1 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 6 Thru 10 in box 2 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 11 Thru 15 in box 3 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 16 Thru 20 in box 4 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 21 Thru 25 in box 5 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 26 Thru 30 in box 6 of 7 Filed 08/04/2017; Appellant Ronald A. Simm's Appendix of Exhibits in Support of his Opening Brief - Volume # 31 in box 7 of 7 Filed 08/04/2017; Exhibits Hearing Date 03/23/2017 in Manila Envelope; Exhibits: Hearing Date 03/29/2017 in Manila Envelope
26. 8-Dec-2025 FILED: Amicus Brief of Amicus Curiae Professor Ilan Wurman on Behalf of Plaintiff-Appellant Ronald Simms; Certificate of Service; Certificate of Compliance (Amicus Wurman)
27. 8-Dec-2025 FILED: Motion for Permission to File Brief Amicus Curiae (Amicus Wurman)
28. 9-Dec-2025 FILED: Motion for Leave to File Brief Amicus Curiae of Pacific Legal Foundation in Support of Ronald A. Simms; Certificate of Service; Objection Email (Amicus Pacific Legal Foundation)
29. 9-Dec-2025 FILED: Brief Amicus Curiae of Pacific Legal Foundation in Support of Ronald A. Simms; Certificate of Service; Certificate of Compliance (Amicus Pacific Legal Foundation)
30. 9-Dec-2025 FILED: (Duplicate) Motion for Leave to File Brief Amicus Curiae of Pacific Legal Foundation in Support of Ronald A. Simms; (Duplicate) Objection Email (Amicus Pacific Legal Foundation)
31. 9-Dec-2025 FILED: Notice of Appearance of Aditya Dynar for Amicus Curiae Pacific Legal Foundation; Certificate of Service (Amicus Pacific Legal Foundation)
32. 9-Dec-2025 FILED: Amicus Curiae Brief of the Attorney General in Support of No Party; Certificate of Service; Certificate of Compliance (Amicus AZ Attorney General)
33. 9-Dec-2025 FILED: Attorney General's Statement of Allowance to File Amicus Curiae Brief in Support of No Party (Amicus AZ Attorney General)

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34. 10-Dec-2025 A "Motion for Permission to File Brief Amicus Curiae" (Amicus Wurman) and the brief of amicus curiae were filed on December 8, 2025. After consideration,

IT IS ORDERED the "Motion for Permission to File Brief Amicus Curiae" is granted. The brief will be filed as of December 8, 2025. (Hon. Ann A. Scott Timmer)
35. 10-Dec-2025 A "Motion for Leave to File Brief Amicus Curiae of Pacific Legal Foundation in Support of Ronald A. Simms" (Amicus Pacific Legal Foundation) and the brief of amicus curiae were filed on December 9, 2025. After consideration,

IT IS ORDERED the "Motion for Leave to File Brief Amicus Curiae of Pacific Legal Foundation in Support of Ronald A. Simms" is granted. The brief will be filed as of December 9, 2025. (Hon. Ann A. Scott Timmer)
36. 16-Dec-2025 Justice William G. Montgomery 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 Michael F. Kelly, Judge of the Arizona Court of Appeals, Division Two, Tucson, is designated to sit on the case until it is finally determined. (Hon. Ann A. Scott Timmer)
37. 29-Dec-2025 FILED: Petitioners TP Racing, L.L.L.P., Jeremy E. Simms, and Bell Racing, LLC's Response to Ilan Wurman's Brief Amicus Curiae; Certificate of Service; Certificate of Compliance (Defendants J. Simms, et al.)
38. 29-Dec-2025 FILED: Petitioners TP Racing, L.L.L.P., Jeremy E. Simms, and Bell Racing, LLC's Response to Arizona Attorney General's Brief Amicus Curiae; Certificate of Service; Certificate of Compliance (Defendants J. Simms, et al.)
39. 29-Dec-2025 FILED: Petitioners TP Racing, L.L.L.P., Jeremy E. Simms, and Bell Racing, LLC's Response to Pacific Legal Foundation's Brief Amicus Curiae; Certificate of Service; Certificate of Compliance (Defendants J. Simms, et al.)
40. 29-Dec-2025 FILED: Respondent Ron Simms' Response to Amicus Curiae Brief of the Attorney General; Certificate of Service; Certificate of Compliance (Plaintiff R. Simms)
41. 29-Dec-2025 FILED: Arizona Racing Commission's Omnibus Response to Amicus Briefs; Certificate of Service; Certificate of Compliance (Defendant AZ Racing)
42. 29-Dec-2025 FILED: Appendix; Certificate of Service (Defendant AZ Racing)
43. 20-Jan-2026 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Christopher L. Hering, James M. Torre, Dominic Emil Draye)
44. 30-Jan-2026 FILED: Notice of Errata (Correcting Amicus Brief Filed 12/9/25, Page 4); Certificate of Service (Amicus Pacific Legal Foundation)
45. 13-May-2026 On the Court's own motion,

IT IS ORDERED correcting the caption as shown above.

IT IS FURTHER ORDERED this caption shall be used on all further documents filed in this matter. (Hon. Ann A. Scott Timmer)
46. 14-May-2026 OPINION - For the foregoing reasons, we vacate the court of appeals' entry of judgment in Ron's favor, vacate its opinion, and reverse the superior court's ruling affirming the Commission's decision. Because neither the court of appeals nor the superior court applied the framework we announce today, the superior court must independently determine all questions of fact and law without deferring to the Commission's findings and then determine whether the Commission's action is supported by substantial evidence based on those independently determined facts. We are not positioned to apply that framework—the superior court's independent factual determination is the required first step, which must be made in the first instance in that court. See § 12-7910(A)–(B), (E)–(F). Accordingly, we remand to the superior court for further proceedings consistent with this Opinion. (Hon. John R. Lopez IV - Author; Hon. Ann A. Scott Timmer - Concur; Hon. Clint Bolick - Concur; Hon James P. Beene - Concur; Hon. Kathryn H. King - Concur; Hon Maria Elena Cruz - Concur; Michael F. Kelly - Concur)
47. 28-May-2026 FILED: Joint Motion for Reconsideration; Certificate of Service (Defendants J. Simms, et al.)
48. 28-May-2026 FILED: Certificate of Compliance; Certificate of Service (Defendants J. Simms, et al.)