Court of Appeals, Division One

Civil Appeal

1 CA-CV 14-0372 WHITE MTN v. MAR COUNTY et al.

Appellate Case Information

Case Filed: 9-Jun-2014

Case Closed:

Dept/Composition

Dept D

Hon. Donn Kessler
Hon. Michael J Brown
Hon. Peter B Swann

Consolidated with: 1 CA-CV 12-0831 1 CA-CV 13-0697

Side 1. WHITE MOUNTAIN HEALTH CENTER, INC., an Arizona non-profit corporation, Plaintiff/Appellee

(Litigant Group) WHITE MOUNTAIN HEALTH CENTER INC

- **White Mountain Health Center Inc**

Co-Counsel for: Plaintiff/Appellee

Steven M White, Esq. (AZ Bar No. 20061)
Ezekiel R Edwards, Esq. (NY Bar No. 4189304)
Emma A Andersson, Esq. (CA Bar No. 260637)
Daniel Joseph Pochoda, Esq. (AZ Bar No. 21979)
Anne M Brady, Esq. (AZ Bar No. 26205)

Side 2. MARICOPA COUNTY; WILLIAM MONTGOMERY, ESQ., Maricopa County Attorney, Defendant/Appellant

(Litigant Group) MARICOPA COUNTY

- **Maricopa County**
- **William G Montgomery**
  AZ Bar No. 21246
  [Current Member]
  Admitted 10/29/01

Attorneys for: Defendants/Appellants

Thomas P Liddy, Esq. (AZ Bar No. 19384)
Joseph I Vigil, Esq. (AZ Bar No. 18677)

Side 3. STATE OF ARIZONA ex rel. MARK BRNOVICH, in his official capacity as Attorney General, Intervenor/Appellee

(Litigant Group) STATE /BRNOVICH

- **State of Arizona**
- **Mark Brnovich**
  AZ Bar No. 14134
  [Current Member]
  Admitted 5/23/92

Attorneys for: Intervenor/Appellee State/Brnovich

Charles A Grube, Esq. (AZ Bar No. 11511)

CASE STATUS

Dec 20, 2016....Decision Rendered

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2012-053585	Final Judgment on Attorney's Fees		Michael D Gordon, Authoring Judge of Order		

DESCENDENT CASE(S)

ASC CV-17-0016-PR

2 OPEN DUE DATES

Response to Attorneys Fees due **Due By:** Friday, January 27, 2017

Re: FILED: Appellee's Application for Attorneys' Fees on Appeal; Certificate of Service; Affidavit of Steve White with Exhibit; Affidavit of Emma Andersson with Exhibit (Appellee)

Petition for Review to ASC due **Due By:** Monday, February 20, 2017 [1 extension]

Re: OPINION (Affirmed in Part, Reversed in Part) Hon Donn Kessler - Author; Hon Peter B Swann - Concur; Hon Michael J Brown - Concur

PENDING MATTER

General Motion Filed: 12-Jan-2017

Appellee's Application for Attorneys' Fees on Appeal(Appellee)

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Court of Appeals, Division One

Civil Appeal

1 CA-CV 14-0372 WHITE MTN v. MAR COUNTY et al.

CASE DECISION

20-Dec-2016 OPINION

Donn Kessler.....Author
Peter Swann.....Concur
Michael Brown.....Concur

Filed: **20-Dec-2016** Mandate:

Decision Disposition
Affirmed in Part
Reversed in Part

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)	
1 CA-CV 12-0831	WHITE MTN v. MAR COUNTY
1 CA-CV 13-0697	MARICOPA v. WHITE MTN

48 PROCEEDING ENTRIES

1.	9-Jun-2014	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/02/14 Bond filed in Superior Court: None Docketing Statement filed in Superior Court: None
2.	9-Jun-2014	FILED: e-Record on Appeal: Instruments/Minute Entries
3.	18-Jun-2014	ORDERED: staying this appeal to and including 7/14/14 and revesting jurisdiction in the Superior Court of Maricopa County to permit that court to consider an application by defendants/appellants for a signed judgment with a certification of finality pursuant to Rule 54(c). FURTHER ORDERED: if the superior court grants defendants/appellant's application, defendants/appellants shall file a copy of the signed judgment within ten days after its entry, in this court's case no. 1 CA-CV 14-0372 and a copy of a timely amended notice of appeal filed in the superior court. FURTHER ORDERED: if the appeal has not been reinstated by the filing of a signed judgment with reference to Rule 54(c) by 7/14/14, defendants/appellants shall file a request to continue the stay of appeal that describes the status of the application. FURTHER ORDERED: if a signed judgment incorporating language from Rule 54(c) and a copy of an amended notice of appeal has been filed prior to the reinstatement date, the court will consolidate this appeal with 1 CA-CV 12-0831 and 1 CA-CV 13-0697 and set a briefing schedule for the issues raised by this appeal. Hon Donn Kessler - Author
4.	24-Jun-2014	FILED: Notice to Counsel re: No Appellant's Fee/Appellee's Fee/Brief Due
5.	24-Jun-2014	FILED: Civil Appeals Docketing Statement; Certificate of Service of Civil Appeals Docketing Statement; Exhibit A (Appellant)
6.	14-Jul-2014	FILED: Notice of Compliance with Order of 6/18/2014; Certificate of Service of Notice of Compliance with Order of 6/18/2014; Exhibits (Appellant)
7.	14-Jul-2014	FILED: Certificate of Service of Notice of Compliance with Order of 6/18/2014 (Appellant)
8.	15-Jul-2014	FILED: Supplemental e-Record - PDJ: Revised Index of Record (Includes Judgment and Amended Notice of Appeal - ama)
9.	18-Jul-2014	ORDERED: consolidating the appeal in 1 CA-CV 14-0372 with the previously consolidated appeals in 1 CA-CV 12-0831 and 1 CA-CV 13-0697. FURTHER ORDERED: opening brief in 1 CA-CV 14-0372 shall be filed on or before 9/2/14. The answering and any reply brief in 1 CA-CV 14-0372 shall be filed pursuant to Arizona Rule of Civil Appellate Procedure 15. All briefs shall also be served on counsel for amici curiae. Hon Donn Kessler - Author
10.	18-Jul-2014	FILED: Appellee's Unopposed Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee)
11.	23-Jul-2014	ORDERED: Appellee's Unopposed Motion for Extension of Time to File Answering Brief = GRANTED. Due date EXTENDED from Monday, 07-28-2014 to Wednesday, 08-27-2014. Nothing in this order affects the briefing schedule for 1 CA-CV 14-0372 set in this Court's Order filed 7/18/14. Hon Donn Kessler - Author
12.	31-Jul-2014	FILED: Notice of Supplemental Authority; Certificate of Service (Appellee)
13.	1-Aug-2014	FILED: Notice of Errata; Certificate of Service (Appellee)
14.	27-Aug-2014	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee White Mountain Health)

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48 PROCEEDING ENTRIES

15.	2-Sep-2014	FILED: Appellants Maricopa County and William Montgomery's Opening Brief relating to Attorney's Fees; Certificate of Compliance; Certificate of Service (Appellant)
16.	11-Sep-2014	ORDERED: Appellants' Motion For Extension Of Time To File Reply Brief Re 1 CA-CV 13-0697 = GRANTED. Due date EXTENDED from Monday, 09-22-2014 to Wednesday, 10-22-2014 Hon Donn Kessler - Author
17.	30-Sep-2014	ORDERED: White Mountain shall have until and through 11/12/14 to file its answering brief in 1 CA-CV 14-0372 in response to Appellants Maricopa County and William Montgomery's opening brief filed 9/2/14. Hon Donn Kessler - Author
18.	15-Oct-2014	FILED: Appellants Maricopa County and William Montgomery's Reply Brief Re 1 CA-CV 13-0697; Certificate of Compliance for Appellants' Reply Brief re 1 CA-CV 13-0697; Certificate of Service of Appellants' Reply Brief re 1 CA-CV 13-0697 (Appellant)
19.	24-Oct-2014	FILED: Appellant's Request for Oral Argument; Certificate of Service for Request for Oral Argument (Appellant)
20.	31-Oct-2014	ORDERED: Appellant's Request for Oral Argument = GRANTED. Hon Donn Kessler - Author
21.	12-Nov-2014	FILED: Appellee's Answering Brief relating to Attorneys' Fees; Certificate of Compliance; Certificate of Service (Appellee White Mntn Health for CV 14-0372)
22.	12-Dec-2014	ORDERED: holding these consolidated cases in abeyance until the Arizona Supreme Court issues its decision in Reed-Kaliher v. Hoggatt. Nothing in this order precludes the Appellants from filing their reply brief on attorneys' fees. Hon Donn Kessler - Author
23.	8-Apr-2015	ORDERED: continuing to hold these consolidated cases in abeyance until ASC issues its mandate in Reed-Kaliher v. Hoggatt. Hon Donn Kessler - Author
24.	1-May-2015	FILED: Appellants Maricopa County and William Montgomery's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only; Certificate of Service of Appellant's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only (Appellant)
25.	27-May-2015	ORDERED: Appellants Maricopa County and William Montgomery's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only (Appellant) = DENIED. Hon Donn Kessler - Author
26.	14-Sep-2015	ORDERED: (Court has determined that ASC has issued mandate in Reed-Kaliher v. Hoggatt and no petition for a writ of certiorari was filed) lifting orders of abeyance in this matter. FURTHER ORDERED: On/before 10/15/15, parties and amici may file briefs on application of Reed-Kaliher to issues in these consolidated appeals. Each supplemental brief shall not exceed ten pages, excluding tables and certificates and any appendices. FURTHER ORDERED: This case will be set for oral argument after filing of above supplemental briefs. Hon Donn Kessler - Author
27.	15-Sep-2015	FILED: Supplemental Amicus Curiae Brief of The Yavapai County Attorney in Support of Appellants County of Maricopa, State of Arizona; Certificate of Compliance; Certificate of Service
28.	6-Oct-2015	FILED: State's Supplemental Brief; Certificate of Compliance; Certificate of Service (Intervenor/Appellant)
29.	15-Oct-2015	FILED: Memorandum: Judge Swann for Judge Thumma (Chief Judge Brown)
30.	15-Oct-2015	FILED: Courtesy Copy of Supplemental Brief of Appellants Maricopa County and William Montgomery (includes Table of Contents and Table of Authorities)
31.	15-Oct-2015	FILED: Appellee's Supplemental Brief; Certificate of Compliance; Certificate of Service (White Mountain Appellee)
32.	15-Oct-2015	FILED: Appellants Maricopa County and William Montgomery's Supplemental Brief; Certificate of Compliance for Appellants Maricopa County and William Montgomery's Supplemental Brief; Certificate of Service for Appellants Maricopa County and William Montgomery's Supplemental Brief
33.	28-Oct-2015	FILED: Appellee's Second Supplemental Citation to Legal Authority; Certificate of Service; Order Re Motion to Dissolve Permanent Injunction dated 10/19/15
34.	11-Dec-2015	FILED: Supplemental Citation of Legal Authorities of Appellants Maricopa County and William Montgomery; Certificate of Service of Supplemental Citation of Legal Authorities (Appellant)
35.	13-Jan-2016	ORDERED: Court will hear oral argument on these consolidated appeals on 3/3/16 @ 10 am. Hon Donn Kessler - Author

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48 PROCEEDING ENTRIES

36.	28-Jan-2016	FILED: Return Receipt of Notice of Oral Argument signed by Steve White on 1/13/16 (Appellee)
37.	1-Feb-2016	FILED: Appellee's Third Supplemental Citation to Legal Authority; Certificate of Service
38.	23-Feb-2016	FILED: Receipt of Notice of Oral Argument signed by Charles A Grube on 1/13/16; Certificate of Service (Intervenor/Appellant/State of AZ)
39.	24-Feb-2016	FILED: Receipt of Notice of Oral Argument signed by Thomas P. Liddy on 1/13/16; Certificate of Service (Appellant)
40.	26-Feb-2016	FILED: Return Receipt Re Oral Argument, signed by Thomas P. Liddy, on 1/13/16 (Appellant Maricopa County)
41.	3-Mar-2016	FILED: Sign-in Sheet/Case is Under Advisement (Dept D)
42.	20-Dec-2016	OPINION (Affirmed in Part, Reversed in Part) Hon Donn Kessler - Author; Hon Peter B Swann - Concur; Hon Michael J Brown - Concur
43.	20-Dec-2016	FILED: Opinion Distribution List
44.	3-Jan-2017	FILED: Motion for Extension of Time to File Application for Attorneys Fees and Costs; Certificate of Service (Appellee)
45.	4-Jan-2017	FILED: Defendants Appellants Maricopa County and William Montgomerys Response to Appellee Motion for Extension of Time to File Application for Attorneys Fees and Cost; Certificate of Service (Appellant)
46.	5-Jan-2017	ORDERED: extending the time for filing Appellee's application (application for attorneys fees and costs) to/including 01/12/2017. Hon Donn Kessler - Author
47.	12-Jan-2017	FILED: ASC Order filed 01/12/2017 re: extending time for filing Petition for Review to 02/20/2017
48.	12-Jan-2017	FILED: Appellee's Application for Attorneys' Fees on Appeal; Certificate of Service; Affidavit of Steve White with Exhibit; Affidavit of Emma Andersson with Exhibit (Appellee)

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