Court of Appeals, Division One

Civil Appeal

1 CA-CV 14-0780 PHOENIX-TUCSON v. DEETZ et al.

Appellate Case Information

Case Filed: 5-Dec-2014

Case Closed:

Dept/Composition

Department B

Hon. Randall M Howe
Hon. Lawrence F Winthrop
Hon. Jon W Thompson

Consolidated with: 1 CA-CV 15-0212 1 CA-CV 16-0075

Side 1. PHOENIX-TUCSON RANCH, LLC, an Arizona limited liability company, Plaintiff/Appellant

(Litigant Group) PHOENIX-TUCSON RANCH LLC

- **Phoenix-Tucson Ranch LLC**

Attorneys for: Plaintiff/Appellant

Scott M Theobald, Esq. (AZ Bar No. 12383)

Mark A Nickel, Esq. (AZ Bar No. 24993)

Side 2. ROBERT CHARLES ENGELSTAD AND DOLORES ANN ENGELSTAD REVOCABLE TRUST; GERALD L. and CAROL A. DEEZ, husband and wife; MARILYN A. GALLAGHER REVOCABLE TRUST; STERLING TRUST COMPANY, Custodian fbo Gary Frank Klingl a/c 85739; ROBERT C. ENGELSTAD, a married man; GARY F. KLINGL, a married man; and PATRICK E. GALLAGHER, a married man, Defendant/Appellee

(Litigant Group) ROBERT CHARLES et al.

- **Robert Charles & Dolores Ann Engelstad Revocable Trust**
- **Gerald L Deetz**
- **Carol A Deetz**
- **Marilyn A Gallagher Revocable Trust**
- **Sterling Trust Company**
- **Robert C Engelstad**
- **Gary F Klingl**
- **Patrick E Gallagher**

Attorneys for: Defendants/Appellees

Paul J Roshka, Jr, Esq. (AZ Bar No. 9285)

Craig M Waugh, Esq. (AZ Bar No. 26524)

CASE STATUS

Jan 19, 2017....Decision Rendered

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2014-003680	Declaratory Judgment		David O Cunanan, Authoring Judge of Order		

3 OPEN DUE DATES

Petition for Review to ASC due **Due By:** Tuesday, February 21, 2017

Re: MEMORANDUM DECISION (Affirmed) Hon Lawrence F Winthrop - Author; Hon Randall M Howe - Concur; Hon Jon W Thompson - Concur

Response to Attorneys Fees due **Due By:** Tuesday, February 21, 2017

Re: FILED: Appellees' Statement of Attorneys' Fees and Costs on Appeal; Certificate of Service of Appellees' Statement of Attorneys' Fees and Costs on Appeal (Appellee)

Response to Costs due **Due By:** Tuesday, February 21, 2017

Re: FILED: Appellees' Statement of Attorneys' Fees and Costs on Appeal; Certificate of Service of Appellees' Statement of Attorneys' Fees and Costs on Appeal (Appellee)

2 PENDING MATTERS

General Motion Filed: 2-Feb-2017

Appellees' Statement of Attorneys' Fees and Costs on Appeal; Certificate of Service of Appellees' Statement of Attorneys' Fees and Costs on Appeal (Appellee)

General Motion Filed: 2-Feb-2017

Appellees' Statement of Attorneys' Fees and Costs on Appeal; Certificate of Service of Appellees' Statement of Attorneys' Fees and Costs on Appeal (Appellee)

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Court of Appeals, Division One

Civil Appeal

1 CA-CV 14-0780 PHOENIX-TUCSON v. DEETZ et al.

CASE DECISION

19-Jan-2017 **MEMORANDUM DECISION**

Lawrence Winthrop.....Author
Randall Howe.....Concur
Jon Thompson.....Concur

Filed: **19-Jan-2017** Mandate:

Decision Disposition
Affirmed

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)	
1 CA-CV 15-0212	HIDDEN VALLEY v. ENGELSTAD et al.
1 CA-CV 16-0075	KLINGL et al. v HIDDEN VALLEY et al.

54 PROCEEDING ENTRIES

1.	5-Dec-2014	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 10/28/14 Bond filed in Superior Court: 11/3/14 Docketing Statement filed in Superior Court: 11/10/14
2.	5-Dec-2014	FILED: e-Record on Appeal: Instruments/Minute Entries
3.	23-Dec-2014	FILED: Notice to Counsel re: Appellant's Fee/Brief Due
4.	31-Dec-2014	FILED: Motion to Dismiss Appeal; Certificate of Service; Exhibit A (Appellee)
5.	6-Jan-2015	RECEIPT No.: 2015-00012 ; $140.00, Authorization: #05020776554, Applied to: ROBERT CHARLES et al. - Class B Filing Fee ($140.00) Paid for: Roshka DeWulf & Patten PLC - By Integrated Resource Systems IN
6.	8-Jan-2015	FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellant)
7.	12-Jan-2015	RECEIPT No.: 2015-00035 ; $280.00, Authorization: #12004275852, Applied to: PHOENIX-TUCSON RANCH LLC - Class A Filing Fee ($280.00) Paid for: Theobald Law PLC - By Integrated Resource Systems
8.	16-Jan-2015	FILED: Plaintiff/Appellant's Response to Motion to Dismiss Appeal; Certificate of Service; Exhibit A (Appellant)
9.	30-Jan-2015	FILED: Reply to Motion to Dismiss Appeal; Certificate of Service (Appellee)
10.	9-Feb-2015	FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Stricken per order of 2/26/16)
11.	10-Feb-2015	ORDERED: on/before 2/20/15, appellees shall file memorandum limited to no more than 10 pages addressing appeal should be stayed. FURTHER ORDERED: On/before 3/2/15, appellant shall file a response to appellee's memorandum limited to no more than 10 pages. No reply shall be filed. FURTHER ORDERED: Deferring ruling on motion to dismiss pending on court's receipt of briefing. FURTHER ORDERED: Vacating briefing schedule in this appeal. Court will address schedule as as necessary. Hon Patricia K Norris - Author
12.	18-Feb-2015	FILED: Notice of Change of Law Firm and Notice of Appearance of Craig M. Waugh; Certificate of Service (Appellee)
13.	20-Feb-2015	FILED: Appellees' Memorandum Regarding Stay of Appeal; Certificate of Service (Appellee)
14.	2-Mar-2015	FILED: Appellant's Response to Appellees' Memorandum Regarding Stay of Appeal; Certificate of Service (Appellant)
15.	11-Mar-2015	ORDERED: Appellees' Memorandum Regarding Stay of Appeal = GRANTED/staying appeal until further order. FURTHER ORDERED: Appellant shall file a status report on/before 5/11/15 indicating status of confirmation proceedings in Klingl, et al. v. Hidden Valley Ranch. FURTHER ORDERED: Denying appellees' motion to dismiss appeal. Hon Patricia K Norris - Author
16.	12-May-2015	FILED: Status Report Re: Confirmation Proceedings; Certificate of Service (Appellant)
17.	28-May-2015	ORDERED: continuing stay of appeal. FURTHER ORDERED: Directing appellant to file status report on/before 7/28/15, indicating status of case CV20015-003361, including whether superior court has issued a final judgment or order and, if so, whether any notice of appeal has been or will be filed. Melina Brill ProTem Judge - Author
18.	27-Jul-2015	FILED: Second Status Report Re: Confirmation Proceedings; Certificate of Service (Appellant)

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54 PROCEEDING ENTRIES

19.	28-Jul-2015	ORDERED: Second Status Report Re: Confirmation Proceedings (Appellant) continuing stay of this appeal. FURTHER ORDERED: Directing appellant to file status report on/before 10/2/15, indicating status of case no. CV2015-003361 including whether superior court has issued a final judgment/order and if so, whether any notice of appeal has been filed. Melina Brill ProTem Judge - Author
20.	12-Aug-2015	ORDERED: Motion to Consolidate Appeal with Appellate Case No. 1CA-CV 14-0780 (Appellee) = GRANTED and consolidating case 1 CA-CV 14-0780 with 1 CA-CV 15-0212. Case no. 1 CA-CV 14-0780 is designated primary number. FURTHER ORDERED: Staying this consolidated appeal until further order. FURTHER ORDERED: Directing appellants to file a status report on/before 10/2/15 indicating status of Maricopa Superior Court case no. CV2015-003361, including whether court has issued final judgment or order and if so, whether any notice of appeal has bee or will be filed. Melina Brill ProTem Judge - Author
21.	18-Sep-2015	FILED: Third Status Report Re: Confirmation Proceedings; Certificate of Service (Appellant)
22.	8-Oct-2015	ORDERED: (Third Status Report Re: Confirmation Proceedings) staying this appeal until further order. FURTHER ORDERED: Directing appellants to file a status report on/before 11/23/15 indicating status of appeal, including case number and whether superior court ruled on motion to strike. Melina Brill ProTem Judge - Author
23.	12-Nov-2015	FILED: Appellees' Response to Appellants' Motion Pursuant to ARCAP Rule 7(c) to Stay The Document - Delivery Portion of The Superior Court's September 8, 2015 Order Pending Final Resolution of Appeals; Certificate of Service (Appellee)
24.	23-Nov-2015	FILED: Fourth Status Report Re: Confirmation Proceedings; Certificate of Service (Appellant)
25.	7-Dec-2015	ORDERED: Fourth Status Report Re: Confirmation Proceedings; (Appellant) = GRANTED/continuing stay of this appeal until further notice. FURTHER ORDERED: Directing appellants to file status report on/before 2/5/16, indicating whether superior court entered a final appealable order in confirmation proceedings and if so, whether appellants have filed or will file a notice of appeal and case number of such appeal. Melina Brill ProTem Judge - Author
26.	14-Jan-2016	FILED: Motion Pursuant to ARCAP Rule 7(c) to Stay the Document-Delivery Portion of the Superior Court's September 8, 2015 Order Pending Final Resolution of Appeals; Certificate of Service (Appellant)
27.	15-Jan-2016	FILED: Notice of Filing of Final Judgment Confirming Arbitration Award; Certificate of Service (Appellant)
28.	19-Jan-2016	ORDERED: directing appellees to file a response (to Motion to Stay) on/before 2/2/16. FURTHER ORDERED: Directing appellants to file a reply on/before 2/12/16. FURTHER ORDERED: Staying document-delivery portion of 9/8/15 superior court order pending this court's ruling on current motion to stay. Hon Patricia A Orozco - Author
29.	2-Feb-2016	FILED: Response to Appellants' Motion Pursuant to ARCAP Rule 7(c) to Stay the Document-Delivery Portion of the Superior Court's September 8,2015 Order Pending Final Resolution of Consolidated Appeals; Certificate of Service (Appellee)
30.	12-Feb-2016	FILED: Joint Reply in Support of Motion Pursuant to ARCAP Rule 7(c) to Stay the Document-Delivery Portion of the Superior Court's September 8, 2015 Order Pending Final Resolution of Consolidated Appeals; Certificate of Service (Appellant)
31.	26-Feb-2016	ORDERED: Lifting the stay of this appeal. FURTHER ORDERED: Granting appellant's motion and consolidating case no. 1 CA-CV 16-0075 with the previously-consolidated case nos. 1 CA-CV 14-0780 and 1 CA-CV 15-0212. FURTHER ORDERED: Striking the Opening Brief filed in 1 CA-CV 14-0780 on 2/9/15. FURTHER ORDERED: Appellants shall file an Opening Brief in the consolidated appeal on or before 4/25/16. FURTHER ORDERED: Directing the clerk of this court to place this consolidated appeal on the first available calendar once it is at issue. FURTHER ORDERED: granting appellant's motion to stay the document-disclosure portion of the final judgment entered in Maricopa County CV2015-003361 on 1/15/16. Hon Donn Kessler - Author
32.	29-Feb-2016	ORDERED: amending this court's order dated 2/26/16. FURTHER ORDERED: Striking opening brief filed in 1 CA-CV 14-0780 on 2/9/15 and opening brief filed in 1 CA-CV 15-0212 on 6/7/15. Barbara Vidal Vaught ProTem Judge - Author
33.	24-Mar-2016	FILED: Notice fo Filing of Transcript; Certificate of Service (Transcript of 7/25/15 Oral Argument attached to Notice) (Appellants)
34.	24-Mar-2016	FILED: Case Management Statement for Court of Appeals Case No. 1 CA-CV 16-0075 (Appellants)
35.	25-Apr-2016	FILED: Appellants' Opening Brief; Certificate of Compliance; Certificate of Service
36.	27-Apr-2016	FILED: Appellants' Notice of Errata; Certificate of Service; Appellants' Opening Brief
37.	1-Jun-2016	FILED: Appellees' Answering Brief; Certificate of Compliance; Certificate of Service (Appellees)

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54 PROCEEDING ENTRIES

38.	24-Jun-2016	FILED: Notice of Supplemental Authority; Certificate of Service (Appellees)
39.	27-Jun-2016	FILED: Appellants' Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
40.	1-Aug-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
41.	1-Aug-2016	FILED: AMENDED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
42.	11-Aug-2016	FILED: Supplemented Superior Court e-Record with Revised Index of Record
43.	10-Oct-2016	FILED: Motion for Accelerated Disposition; Certificate of Service
44.	14-Oct-2016	FILED: Motion to Consolidate; Certificate of Service (Appellant)
45.	31-Oct-2016	FILED: Notice of Change of Firm's Mailing Address; Certificate of Service (Appellant)
46.	31-Oct-2016	FILED: Appellants' Response to Motion for Accelerated Disposition; Certificate of Service (Appellant)
47.	2-Nov-2016	FILED: Appellees' Response to Motion to Consolidate; Certificate of Service of Appellees' Response to Motion to Consolidate (Appellee)
48.	14-Nov-2016	FILED: Reply in Support of Motion for Accelerated Disposition; Certificate of Service
49.	14-Nov-2016	FILED: Reply in Support of Motion to Consolidate; Certificate of Service (Appellant)
50.	17-Nov-2016	ORDERED: Denying the Motion to Consolidate. FURTHER ORDERED: Denying Motion for Accelerated Disposition, but placing the appeal on the court's first available calendar. FURTHER ORDERED: Directing the clerk to schedule this appeal for consideration on the first available date on the court's regular calendar. Hon Diane M Johnsen - Author
51.	28-Nov-2016	CLNDR: CONFERENCE, Department B, 1-10-17, COURTROOM 2.
52.	19-Jan-2017	MEMORANDUM DECISION (Affirmed) Hon Lawrence F Winthrop - Author; Hon Randall M Howe - Concur; Hon Jon W Thompson - Concur
53.	19-Jan-2017	FILED: Memorandum Decision Distribution List
54.	2-Feb-2017	FILED: Appellees' Statement of Attorneys' Fees and Costs on Appeal; Certificate of Service of Appellees' Statement of Attorneys' Fees and Costs on Appeal (Appellee)

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