Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0080 RAINER v. SWIFT et al.

Appellate Case Information

Case Filed: 6-Feb-2015

Case Closed:

Dept/Composition

Department B (August)

Hon. Michael J Brown
Hon. Kent E Cattani
Hon. Maurice Portley

Side 1. JANEL RAINER, wrongful death statutory beneficiary, for and on behalf of herself and survivors of her husband, decedent CHRISTOPHER RAINER, Plaintiff/Appellant

(Litigant Group) JANEL RAINER

- **Janel Rainer**

Attorneys for: Plaintiff/Appellant

Daniel B Treon, Esq. (AZ Bar No. 14911)

Side 2. SWIFT TRANSPORTATION COMPANY OF ARIZONA, LLC, et al., Defendant/Appellee

(Litigant Group) SWIFT TRANSPORTATION CO OF ARIZONA

- **Swift Transportation Co of Arizona LLC**

Attorneys for: Defendant/Appellee Swift

Phillip H Stanfield, Esq. (AZ Bar No. 11729)

Jonathan Paul Barnes, Jr., Esq. (AZ Bar No. 28014)

Jason P Kasting, Esq. (AZ Bar No. 28111)

(Litigant Group) JAMES M. KURBAT, M.D.

- **James M Kurbat**

Attorneys for: Defendant/Appellee Kurbat

William G Fairbourn, Esq. (AZ Bar No. 3399)

Laura Van Buren, Esq. (AZ Bar No. 31669)

CASE STATUS

Nov 2, 2016.....Motion for Reconsideration Pending

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2009-032279	Wrongful Death; Negligence		Lisa Daniel Flores, Authoring Judge of Order		
MAR	CV2011-015216					

3 PENDING MATTERS

General Motion Filed: 12-Oct-2016

Statement of Costs; Certificate of Service (Appellee)

General Motion Filed: 19-Oct-2016

Statement of Costs (Appellee)

General Motion Filed: 2-Nov-2016

Plaintiff/Appellant's Motion for Reconsideration (Appellant)

CASE DECISION

11-Oct-2016 MEMORANDUM DECISION

Amended Per Order Filed 10-12-16

Filed: **11-Oct-2016** Mandate:

Decision Disposition
Affirmed

Michael Brown.....Author

Kent Cattani.....Concur

Maurice Portley.....Concur

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52 PROCEEDING ENTRIES

1.	6-Feb-2015	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 01/09/15 Docketing Statement filed in Superior Court: 1/27/15
2.	6-Feb-2015	FILED: e-Record on Appeal (CV2009-032279): Instruments/Minute Entries
3.	6-Feb-2015	FILED: e-Record on Appeal (CV2011-015216): Instruments/Minute Entries
4.	18-Feb-2015	FILED: Notice to Parties re: Appellant's Fee/Brief Due
5.	3-Mar-2015	FILED: Plaintiff/Appellant's Notice of Paying Filing Fee; Certificate of Service (of Notice of Paying Filing Fee)
6.	6-Mar-2015	RECEIPT No.: 2015-00282 ; $280.00, Authorization: #64018839198, Applied to: JANEL RAINER - Class A Filing Fee ($280.00) Paid for: Treon & Shook PLLC - By Integrated Resource Systems IN
7.	12-Mar-2015	FILED: Motion to Dismiss Appeal (Appellees Swift Transportation Company of Arizona, LLC); Certificate of Service (Appellee)
8.	17-Mar-2015	FILED: Appellee's Notice re: Appellee Kurbat's Fee Due/Appellant's Brief Due
9.	17-Mar-2015	RECEIPT No.: 2015-00336 ; $140.00, Authorization: #75021327821, Applied to: SWIFT TRANSPORTATION CO OF ARIZONA - Class B Filing Fee ($140.00) Paid for: Jones Skelton & Hochuli PLC - By Integrated Resource Systems
10.	19-Mar-2015	FILED: Kurbat Defendants/Appellees' Joinder in Swift Transportation Company of Arizona, LLC's Motion to Dismiss Appeal; Certificate of Service (Appellee)
11.	23-Mar-2015	RECEIPT No.: 2015-00377 ; $140.00, Authorization: #82004065524, Applied to: JAMES M. KURBAT, M.D. - Class B Filing Fee ($140.00) Paid for: Bonnett Fairbourn Friedman & Balint PC - By Integrated Resource Systems IN
12.	31-Mar-2015	FILED: Plaintiff's Response to Defendant Swift Transportation of Arizona LLC's Motion to Dismiss and in the Alternative, Plaintiff's Motion to Suspend Appeal; Certificate of Service; Exhibits 1-3; Exhibits 4-6 (Appellant)
13.	3-Apr-2015	FILED: Notice of Withdrawal of Motion to Dismiss Appeal and Stipulation to Suspend Appeal Under Barassi; Certificate of Service (Appellee)
14.	13-Apr-2015	FILED: Motion for Procedural Order to Extend Deadline for Appellant's Opening Brief; Certificate of Service (Amicus Curiae)
15.	15-Apr-2015	ORDERED: vacating 4/20/15, due date for opening brief. Order ruling on pending Motion to Dismiss Appeal and Stipulation to suspend Appeal under Barassi will set a due date for filing opening brief. Melina Brill ProTem Judge - Author
16.	30-Apr-2015	ORDERED: Motion to Dismiss Appeal (Appellees Swift Transportation Company of Arizona, LLC) = DENIED. FURTHER ORDERED: staying appeal to/including 6/15/15 and revesting jurisdiction to Maricopa Superior Court to consider application for signed order re: Rule 54(c) corresponding to minute entry order filed 4/30/13, resolving claims against defendant Jerry Burger. FURTHER ORDERED: W/in 10 days after ruling, appellant shall file a notice w/ ruling attached. Appeal will be automatically reinstated. FURTHER ORDERED: If appeal not reinstated by signed order, appellant shall file a request to continue stay or appeal may be dismissed. FURTHER ORDERED: If signed order has been filed, opening brief is due 7/15/15. Hon Samuel A Thumma - Author
17.	9-Jun-2015	FILED: Supplemented Superior Court e-Record with Revised Index of Record [includes signed Order dismissing Jerry Burger filed 6/2/15)
18.	15-Jun-2015	FILED: Notice of Filing of Certified Transcripts; Reporter's Transcript of Proceedings 3/1/13 (Amy E Weaver); Reporter's Transcript of Proceedings 11/1/13 (Cindy Benner) (Appellant)
19.	22-Jun-2015	FILED: Stipulation to Extend Briefing Deadlines - Motion for a Procedural Order; Certificate of Service; Order (Amicus Curiae)
20.	23-Jun-2015	ORDERED: Stipulation to Extend Briefing Deadlines - Motion for a Procedural Order (Amicus Curiae) = GRANTED. Due date EXTENDED from Wednesday, 07-15-2015 to Friday, 08-14-2015. FURTHER ORDERED: Answering brief shall be due w/in 40 days after service of opening brief; and reply brief shall be due 20 days after service of answering brief. Melina Brill ProTem Judge - Author
21.	14-Aug-2015	FILED: Janel Rainer's Opening Brief on Appeal; Certificate of Compliance; Certificate of Service (Appellant)
22.	14-Aug-2015	FILED: Appellant's Appendix (to Opening Brief)

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52 PROCEEDING ENTRIES

23.	15-Sep-2015	FILED: Motion for Procedural Order Striking Plaintiff's Appendix for Failing to Comply With ARCAP 13.1; Certificate of Service (Appellee)
24.	18-Sep-2015	FILED: Kurbat Defendants/Appellees' Joinder in Swift Transportation Company of Arizona, LLC's Motion for Procedural Order Striking Plaintiff's Appendix for Failing to Comply With ARCAP 13.1; Certificate of Service (Appellee)
25.	28-Sep-2015	FILED: Answering Brief of Defendant/Appellee Swift Transportation Company of Arizona, LLC; Certificate of Compliance; Certificate of Service
26.	28-Sep-2015	FILED: Answering Brief of Defendant/Appellee James M. Kurbat, M.D.; Certificate of Compliance; Certificate of Service
27.	28-Sep-2015	FILED: Appendix to the Answering Brief of Defendant/Appellee James M. Kurbat, M.D. (Appellee)
28.	6-Oct-2015	FILED: Plaintiff/Appeallant Rainer's Procedural Motion for Leave of court to File Amended Opening Brief Including Amended Appendix; Certificate of Service; Proposed Opening Brief (Amicus Curiae)
29.	6-Oct-2015	FILED: Plaintiff/Appellant Rainer's Response to Defendant/Appellee Swift Transportation Company of Arizona, LLC's, Motion for Procedural Order Striking Plaintiff's Appendix for Failing to Comply with ARCAP 13.1; Certificate of Service (Amicus Curiae)
30.	28-Oct-2015	ORDERED: Plaintiff/Appeallant(sic) Rainer's Procedural Motion for Leave of court to File Amended Opening Brief Including Amended Appendix = GRANTED and accepting opening brief filed on 10/6/15 in place of opening brief filed on 8/14/15. FURTHER ORDERED: Directing appellant to file amended appendix on/before 11/6/15. FURTHER ORDERED: Motion for Procedural Order Striking Plaintiff's Appendix for Failing to Comply With ARCAP 13.1 (Appellee) = DENIED as moot. FURTHER ORDERED: reply brief shall be filed on/before 11/17/15. Melina Brill ProTem Judge - Author
31.	30-Oct-2015	FILED: Appellant's Amended Appendix (to Amended Opening Brief - Part 1)
32.	30-Oct-2015	FILED: (Appellant's Amended Appendix to Amended Opening Brief) Part 2
33.	13-Nov-2015	FILED: Plaintiff Appellant Rainer's Procedural Motion for Extension of Time to File Reply Brief; Certificate of Service (Appellant)
34.	16-Nov-2015	ORDERED: Plaintiff Appellant Rainer's Procedural Motion for Extension of Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 11-17-2015 to Friday, 12-11-2015. Melina Brill ProTem Judge - Author
35.	11-Dec-2015	FILED: Reply Brief on Appeal of Plaintiff-Appellant Janel Ranier; Certificate of Compliance; Certificate of Service
36.	29-Dec-2015	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
37.	8-Jan-2016	FILED: Supplemented Superior Court e-Record with Revised Index of Record
38.	29-Mar-2016	FILED: Notice of Change of Firm Address; Certificate of Service (Appellee)
39.	7-Apr-2016	FILED: Notice of Change of Firm Address; Certificate of Service (Appellant)
40.	5-Jul-2016	CLNDR: CONFERENCE, Department B (August), 8-9-16, COURTROOM 2.
41.	11-Oct-2016	MEMORANDUM DECISION (Affirmed) Hon Michael J Brown - Author; Hon Kent E Cattani Judge - Concur; Hon Maurice Portley - Concur
42.	11-Oct-2016	FILED: Memorandum Decision Distribution List
43.	12-Oct-2016	FILED: Statement of Costs; Certificate of Service (Appellee)
44.	12-Oct-2016	ORDERED: the Clerk's office, by interlineation, shall amend first page of decision to add name of judge Patricia A Starr, so that it reads as listed in order. FURTHER ORDERED: the Clerk's office, by interlineation, amend second page of decision to add (Retired) after Judge Maurice Portley, so that it reads as listed in order. FURTHER ORDERED: copy of this order be sent to all parties who received notification of decision. Hon Michael J Brown - Author
45.	19-Oct-2016	FILED: Statement of Costs; Certificate of Service (Appellee)
46.	25-Oct-2016	FILED: Procedural Motion to Extend Time to File Motion for Reconsideration; Certificate of Service (Appellant)
47.	26-Oct-2016	ORDERED: Procedural Motion to Extend Time to File Motion for Reconsideration (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 10-26-2016 to Wednesday, 11-02-2016. Hon Michael J Brown - Author
48.	2-Nov-2016	FILED: Plaintiff/Appellant's Motion for Reconsideration; Certificate of Compliance; Certificate of Service; Exhibit A to Motion for Reconsideration (Appellant)

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52 PROCEEDING ENTRIES

49.	19-Dec-2016	ORDERED: Defendants/Appellees may file a response (to Motion for Reconsideration) on/before 01/18/2016. No reply shall be filed. Hon Michael J Brown - Author (AMENDED per order filed 12/21/2016)
50.	21-Dec-2016	AMENDED ORDERED: Defendants/Appellees may file a response (to Motion for Reconsideration) on/before 01/18/2017. No reply shall be filed. Hon Michael J Brown - Author
51.	18-Jan-2017	FILED: Swift's Response to Rainer's Motion for Reconsideration; Order for Response to Motion for Reconsideration; Certificate of Service (Appellee)
52.	18-Jan-2017	FILED: Defendant/Appellee Kurbat's Response to Plaintiff/Appellant's Motion for Reconsideration; Order for Response to Motion for Reconsideration; Certificate of Service; Certificate of Compliance (Appellee)

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