Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0475 MANIATIS v. MCA et al.

Appellate Case Information

Case Filed: 17-Jul-2015

Case Closed:

Dept/Composition

Department D

Hon. Andrew W. Gould
Hon. Peter B Swann
Hon. Patricia A Orozco

Consolidated with: 1 CA-CV 13-0131 | 1 CA-CV 14-0432 | 1 CA-CV 15-0182 | 1 CA-CV 15-0413 | 1 CA-CV 15-0474 | 1 CA-CV 15-0514 | 1 CA-CV 15-0615

Side 1. DAVID P. MANIATIS, individually and as beneficiary of the David Maniatis IRA, and as beneficiary of the Eugenia Hoof IRA, Appellant

(Litigant Group) DAVID P MANIATIS

- **David P Maniatis**
  AZ Bar No. 5913
  [Suspended]
  SOLE PRACTIONER
  Admitted 10/13/79

Attorneys for: Appellant

Ronald E Warnicke, Esq. (AZ Bar No. 1791)

Side 2. MCA FINANCIAL GROUP, LTD, Court Appointed Receiver, by and through KEITH BIERMAN, Appellee

(Litigant Group) MCA FINANCIAL GROUP LTD

- **MCA Financial Group LTD**
- **Keith Bierman**

Attorneys for: Receiver/Appellee

Richard M Amoroso, Esq. (AZ Bar No. 10756)

Christina W Kelly, Esq. (AZ Bar No. 19371)

(Litigant Group) IMH

- **IMH Special Asset NT 168 LLC**
- **IMH Special Asset NT 161 LLC**

Attorneys for: Court Ordered Representative IMH

Christopher H Bayley, Esq. (AZ Bar No. 10764)

Benjamin W Reeves, Esq. (AZ Bar No. 25708)

CASE STATUS

Jan 10, 2017....Motion for Reconsideration Pending

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2010-010943	Deficiency and Breach of Guaranty		Katherine M Cooper, Authoring Judge of Order		
MAR	CV2010-010990					

OPEN DUE DATE

Petition for Review to ASC due **Due By:** Thursday, January 26, 2017

Re: MEMORANDUM DECISION (Vacated in Part, Remanded in Part, Dismissed in Part) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur

PENDING MATTER

General Motion Filed: 10-Jan-2017

Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Appellee)

Information presented in this document may not reflect all case activity and is subject to change without notice.

Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0475 MANIATIS v. MCA et al.

CASE DECISION

27-Dec-2016 MEMORANDUM DECISION

Peter Swann.....Author
Andrew Gould.....Concur
Patricia Orozco.....Concur

Filed: **27-Dec-2016** Mandate:

Decision Disposition
Vacated in Part
Remanded in Part
Dismissed in Part

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)	
1 CA-CV 13-0131	IMH et al. v. APERION et al.
1 CA-CV 14-0432	IMH et al. v. ELADIO et al.
1 CA-CV 15-0182	IMH et al. v. MANIATIS et al.
1 CA-CV 15-0413	ELADIO et al. v. MCA
1 CA-CV 15-0474	IMH et al. v. MANIATIS
1 CA-CV 15-0514	IMH et al. v. ELADIO et al.
1 CA-CV 15-0615	IMH et al. v. MANIATIS

55 PROCEEDING ENTRIES

1.	17-Jul-2015	FILED: Index of Record, Notice of Appeal (of 5/26/15 Order) from Maricopa County Superior Court filed 06/19/15
2.	17-Jul-2015	FILED: e-Record on Appeal (CV2010-010943): Instruments/Minute Entries Exhibits - not sent at this time
3.	23-Jul-2015	FILED: e-Record on Appeal: Instruments/Minute Entries
4.	28-Jul-2015	FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
5.	10-Aug-2015	FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellant)
6.	13-Aug-2015	RECEIPT No.: 2015-01120 ; $280.00, Authorization: #24021960049, Applied to: DAVID P MANIATIS - Class A Filing Fee ($280.00) Paid for: Ronald E Warnicke - By Integrated Resource Systems IN
7.	17-Aug-2015	FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
8.	17-Aug-2015	FILED: Case Management Statement (Appellant)
9.	28-Sep-2015	FILED: Appellant David P Maniatis' Opening Brief; Certificate of Compliance; Certificate of Service
10.	1-Oct-2015	FILED: Motion for a Procedural Order to Cosolidate Appeals: 1 CA CV 15-0475 and 1 CA CV 15-0615; Certificate of Service (Appellant)
11.	6-Oct-2015	FILED: Appellee's Response to Appellant's Motion for Procedural Order to Consolidate Appeals 15-0475 and 15-0615 -AND- Appellees' Motion to: (1) Further Consolidate Appeals 15-0475 and 15-0615 with 13-0131; (2) Stay Briefing on Merits of Appeals Pending Motion to Dismiss or Alternatively (3) Dismiss 1 CA CV 15-0475 and 1 CA CV 15-0615 as Moot; Certificate of Service (Appellee)
12.	6-Oct-2015	FILED: Notice of Appearance By IMH Special Asset NT 168, LLC and IMH Special Asset NT 11, LLC as Court Ordered Representative for Appellee MCA Financial Group, Ltd.; Certificate of Mailing (Appellee)
13.	9-Oct-2015	RECEIPT No.: 2015-01411 ; $140.00, Authorization: #81010814486, Applied to: IMH - Class B Filing Fee ($140.00) Paid for: Snell & Wilmer LLP - By Integrated Resource Systems IN
14.	15-Oct-2015	FILED: Reply in Support of Appellant's Motion for Procedural Order to Consolidate Appeals 1 CA CV 15-0475 and 1 CA CV 15-0615; Certificate of Service (Appellant)
15.	19-Oct-2015	RECEIPT No.: 2015-01453 ; $140.00, Check Number: #407725, Applied to: IMH - Class B Filing Fee ($140.00) Paid for: Snell & Wilmer LLP - By Snell & Wilmer LLP
16.	19-Oct-2015	RECEIPT No.: 2015-01454 ; $140.00, Check Number: 407725, Applied to: IMH - Overpayment Class B ($140.00) Paid for: Snell & Wilmer LLP - By Snell & Wilmer LLP (Memo: ref 2015-01411 overpayment 2015-01453)

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55 PROCEEDING ENTRIES

17.	19-Oct-2015	VOID RECEIPT No.: 2015-01453 - $-140.00, Check Number: #407725, - Applied to: IMH - Class B Filing Fee ($-140.00) Paid for: Snell & Wilmer LLP - By: Snell & Wilmer LLP VOID Reason: X-REF 2015-01454 incorrect receivable overpayment of 2015-01411. alc
18.	22-Oct-2015	FILED: Appellees' Motion for Extension of Time to File Response Briefs in Case Nos. 1 CA-CV 15-0475 and 1 CA-CV 15-0615; Certificate of Mailing (Appellee)
19.	27-Oct-2015	ORDERED: Appellees' Motion for Extension of Time to File Response Briefs in Case Nos. 1 CA-CV 15-0475 and 1 CA-CV 15-0615 (Appellee) = GRANTED and vacating 11/16/15 due date for answering brief. Order ruling on pending motions to consolidate appeals will address due date for answering brief. Melina Brill ProTem Judge - Author
20.	5-Nov-2015	FILED: Reply in Support of Appellees' Motion to: (1) Further Consolidate Appeals 15-0475 and 15-0615 with 13-0131; (2) Stay Briefing on Merits of Appeals Pending Motion to Dismiss; or Alternatively (3) Dismiss 15-0475 and 15-0615 as Moot; Certificate of Mailing (Appellee)
21.	16-Nov-2015	ORDERED: granting motions to consolidate and consolidating cases 1 CA-CV 15-0475 and 1 CA-CV 15-0615 with 1 CA-CV 13-0131. Case No. 1 CA-CV 13-0131 is designated primary number. FURTHER ORDERED: Opening brief filed in 1 CA-CV 15-0475 shall also apply to appeal 1 CA-CV 15-0615. FURTHER ORDERED: Granting motion to stay briefing. Order ruling on pending motion to dismiss will address briefing schedule, if motion to dismiss is denied. Melina Brill ProTem Judge - Author
22.	18-Nov-2015	FILED: Letter, 11/18/2015, From Court to Snell & Wilmer LLP Re: Refund of Monies Submitted in Error
23.	24-Nov-2015	FILED: Returned US Mail, Order filed 11/16/15, addressed to Aperion Communities LLLP, Insufficient Address - Unable to Forward
24.	25-Nov-2015	ORDERED: Appellees' Motion to Dismiss Appeals = GRANTED IN PART and dismissing portion of appeal 1 CA-CV 14-0432. FURTHER ORDERED: dismissing appeals 1 CA-CV 14-0833, 1 CA-CV 14-0860, 1 CA-CV 14-0861, 1 CA-CV 15-0079, and 1 CA-CV 15-0081. FURTHER ORDERED: denying remainder of motion to dismiss appeals. FURTHER ORDERED: amending caption in this appeal as shown on this order. FURTHER ORDERED: court will consider appeal 1 CA-CV 13-0131 before remaining appeals. FURTHER ORDERED: opening brief(s) in appeal 1 CA-CV 13-0131 due on/before 1/22/2016. FURTHER ORDERED: staying briefing in the remaining appeals pending further order of this court. Hon Andrew W Gould - Author
25.	17-Dec-2015	FILED: Notice of Withdrawal of Counsel for Party in Interest/Appellant MW2 Investments, LLC; Certificate of Service (Appellant)
26.	31-Dec-2015	FILED: Motion to Withdraw as Attorney of Record; Certificate of Service; Court of Appeals - Order re Motion to Withdraw (Appellee)
27.	14-Jan-2016	FILED: Motion to Extend Time to File Opening Brief; Certificate of Service (Appellant)
28.	19-Jan-2016	ORDERED: Motion to Extend Time to File Opening Brief (Appellant) = GRANTED (all opening briefs). Due date EXTENDED from Friday, 01-22-2016 to Friday, 02-19-2016 Melina Brill ProTem Judge - Author
29.	25-Jan-2016	ORDERED: Motion to Withdraw as Attorney of Record (Attorney Jeffrey J Goulder) (Appellees IMH Special Asset NT 168, et al.) = GRANTED. Barbara Vidal Vaught ProTem Judge - Author
30.	4-Feb-2016	FILED: Returned US Mail, Order re: Extension of Time dated 2/4/16, addressed to Aperion Communities, Return to Sender - Undeliverable
31.	19-Feb-2016	FILED: Appendix to Opening Brief; Exhibit 1; Exhibit 2; Exhibits 3 - 6 (Appellants Eladio, et al.)
32.	19-Feb-2016	FILED: Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Eladio, et al.)
33.	19-Feb-2016	FILED: Motion to Extend Word Limitation for Opening Brief; Certificate of Service (Appellant)
34.	23-Feb-2016	ORDERED: Motion to Extend Word Limitation for Opening Brief (Appellant) = GRANTED and accepting opening brief filed on 2/19/16. FURTHER ORDERED: granting appellees leave to file an answering brief not to exceed 16,300 words. Hon Michael J Brown - Author
35.	4-Apr-2016	FILED: Answering Brief of Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC; Certificate of Compliance; Certificate of Service
36.	4-Apr-2016	FILED: Answering Brief of Receiver/Appellee David M Reaves; Certificate of Compliance; Certificate of Service

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55 PROCEEDING ENTRIES

37.	4-Apr-2016	FILED: Appellee's Appendix Volume 1 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
38.	4-Apr-2016	FILED: Appellee's Appendix Volume 2 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
39.	21-Apr-2016	FILED: Motion to Extend Time to file Reply Brief; Certificate of Service (Appellant)
40.	25-Apr-2016	ORDERED: Motion to Extend Time to file Reply Brief; (Appellant) = GRANTED for all reply briefs. Due date EXTENDED from Monday, 05-02-2016 to Monday, 05-23-2016. Melina Brill ProTem Judge - Author
41.	27-Apr-2016	FILED: Motion to Strike Answering Brief of Reciver David M. Reaves; Certificate of Service (Appellant)(Duplicate)
42.	9-May-2016	FILED: Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC Response to Motion to Strike Answering Brief of David M. Reaves; Certificate of Service (Appellee)
43.	9-May-2016	FILED: Receiver/Appellee David M. Reaves Response and Opposition to Motion to Strike Answering Brief of David M. Reaves; Certificate of Service (Appellee)
44.	12-May-2016	FILED: Returned US Mail, Order RE: Extension of Time - Reply Briefs dated 04/25/2016, addressed to Aperian Communities LLLP, Undeliverable
45.	23-May-2016	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant Maniati)
46.	31-May-2016	ORDERED: Motion to Strike Answering Brief of Receiver David M. Reaves (Appellant) = DENIED. Hon Andrew W Gould - Author
47.	7-Jun-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
48.	8-Jun-2016	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellants Eladio)
49.	17-Jun-2016	FILED: Additional Record on Appeal Exhibits: HD 10/12/12 - LIST# 1 6 7 9 10 14 16 18 19 20 21 22 23 24 34 in a manila envelope; HD 9/18/13 - LIST# 12 13 17 23 24 27 28 31 35 36 40 42 43 44 45 60 in a manila envelope; HD 9/19/13 - LIST# 1 2 in manila envelope; HD 11/14/13 - LIST# 1 3 5 7 14 15 in a manila envelope; HD 1/15/14 - LIST# 1 3 4 7 9 13 15 16 17 18 20 21 41 42 43 44 46 52 53 72 73 81 99 104 in a manila envelope; HD 6/3/14 - LIST# 5 6 13 14 16 17 18 19 21 23 25 27 in manila envelope; HD 10/23/15 - LIST# 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 in manila envelope
50.	23-Jun-2016	FILED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee)
51.	7-Jul-2016	CLNDR: CONFERENCE, Department D, 9-28-16, COURTROOM 2.
52.	15-Jul-2016	ORDERED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee) = DENIED. Hon Andrew W Gould - Author
53.	27-Dec-2016	MEMORANDUM DECISION (Vacated in Part, Remanded in Part, Dismissed in Part) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur
54.	27-Dec-2016	FILED: Memorandum Decision Distribution List
55.	10-Jan-2017	FILED: Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Appellee)

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