

Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0615

IMH et al. v. MANIATIS

Appellate Case Information

Case Filed: 15-Sep-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 15-0475 1 CA-CV 15-0514

Side 1. IMH SPECIAL ASSET NT 168, LLC, an Arizona limited liability company; IMH SPECIAL ASSET NT 161, LLC, an Arizona limited liability company, Plaintiff/Appellee

(Litigant Group) IMH SPECIAL ASSET NT 168 et al.

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

Attorneys for: Plaintiffs/Appellees

Christopher H Bayley, Esq. (AZ Bar No. 10764)
Benjamin W Reeves, Esq. (AZ Bar No. 25708)

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

(Litigant Group) MCA FINANCIAL GROUP/KEITH BIERMAN

- MCA Financial Group LTD
Keith Bierman

Attorneys for: Receiver/sAppellee

Richard M Amoroso, Esq. (AZ Bar No. 10756)
Christina W Kelly, Esq. (AZ Bar No. 19371)

Side 3. REAVES LAW GROUP, by and through DAVID REAVES, Court Appointed Receiver, Appellee

(Litigant Group) REAVES LAW GROUP/DAVID REAVES

- Reaves Law Group
David Reaves

Attorneys for: Receivers/Appellees

David M Reaves, Esq. (AZ Bar No. 11677)

Side 4. DAVID P. MANIATIS, individually, and as beneficiary of the David Maniatas IRA, and as beneficiary of the Eugenia Hoof IRA, Defendant/Appellant

(Litigant Group) DAVID P. MANIATIS

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

Attorneys for: Defendant/Appellant

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

CASE STATUS

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

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR CV2010-010943 Denying Motion for Leave to Sue Receiver Katherine M Cooper, Authoring Judge of Order. Row 2: 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)

Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0615

IMH et al. v. MANIATIS

CASE DECISION

27-Dec-2016 MEMORANDUM DECISION

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

Filed: 27-Dec-2016

Mandate:

Table with 1 column: Decision Disposition. Content: 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 15-0475 MANIATIS v. MCA et al.
1 CA-CV 15-0514 IMH et al. v. ELADIO et al.

53 PROCEEDING ENTRIES

- 1. 15-Sep-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/17/15
2. 15-Sep-2015 FILED: Record on Appeal (CV2010-010943): Instruments/Minute Entries Exhibits - not sent at this time
3. 15-Sep-2015 FILED: e-Record on Appeal (CV2010-010990): Instruments/Minute Entries
4. 21-Sep-2015 FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
5. 28-Sep-2015 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellant)
6. 28-Sep-2015 FILED: Appellant David P Maniatis' Opening Brief; Certificate of Compliance; Certificate of Service
7. 1-Oct-2015 RECEIPT No.: 2015-01360 ; \$280.00, Authorization: #73016443000, Applied to: DAVID P. MANIATIS - Class A Filing Fee (\$280.00) Paid for: Ronald E Warnicke - By Integrated Resource Systems IN
8. 2-Oct-2015 FILED: Appellee's Notice re: All Appellee's Fees Due/Appellant's Brief Due
9. 6-Oct-2015 FILED: Notice of Appearance by IMH Special Asset NT 168, LLC and IMH Special Asset NT 161, LLC as Court Ordered Representative for Appellee MCA Financial Group, Ltd.; Certificate of Mailing (Appellee)
10. 9-Oct-2015 RECEIPT No.: 2015-01408 ; \$140.00, Authorization: #81010814486, Applied to: IMH SPECIAL ASSET NT 168 et al. - Class B Filing Fee (\$140.00) Paid for: Snell & Wilmer LLP - By Integrated Resource Systems IN
11. 13-Oct-2015 FILED: Case Management Statement (Appellant)
12. 19-Oct-2015 RECEIPT No.: 2015-01452 ; \$140.00, Check Number: #407724, Applied to: IMH SPECIAL ASSET NT 168 et al. - Class B Filing Fee (\$140.00) Paid for: Snell & Wilmer LLP - By Snell & Wilmer LLP
13. 22-Oct-2015 FILED: Appellees' Motion for Extension of Time to File Response Brief in Case Nos. 1 CA-CV 15-0475 and 1 CA-CV 15-0615; Certificate of Mailing (Appellee)
14. 26-Oct-2015 FILED: Response to Appellees' Motion to: (1) Further Consolidate Appeals 1 CA-CV 15-0475 and 1 CA CV 15-0615 with 1 CA CV 13-0131 (2) Stay Brief on Merits on Appeals Pending Motion to Dismiss; or (3) Dismiss 1 CA CV 15-0475 and 1 CA CV 15-0615 as Moot; Certificate of Service (Appellant)
15. 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)

Court of Appeals, Division One**Civil Appeal****1 CA-CV 15-0615****IMH et al. v. MANIATIS****53 PROCEEDING ENTRIES**

16. 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
17. 24-Nov-2015 FILED: Returned US Mail, Order filed 11/16/15, addressed to Aperion Communities LLLP, Insufficient Address - Unable to Forward
18. 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
19. 17-Dec-2015 FILED: Notice of Withdrawal of Counsel for Party in Interest/Appellant MW2 Investments, LLC; Certificate of Service (Appellant)
20. 31-Dec-2015 FILED: Motion to Withdraw as Attorney of Record; Certificate of Service; Court of Appeals - Order re Motion to Withdraw (Appellee)
21. 14-Jan-2016 FILED: Motion to Extend Time to File Opening Brief; Certificate of Service (Appellant)
22. 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
23. 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
24. 4-Feb-2016 FILED: Returned US Mail, Order re: Extension of Time dated 2/4/16, addressed to Aperion Communities, Return to Sender - Undeliverable
25. 19-Feb-2016 FILED: Appendix to Opening Brief; Exhibit 1; Exhibit 2; Exhibits 3 - 6 (Appellants Eladio, et al.)
26. 19-Feb-2016 FILED: Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Eladio, et al.)
27. 19-Feb-2016 FILED: Motion to Extend Word Limitation for Opening Brief; Certificate of Service (Appellant)
28. 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
29. 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
30. 4-Apr-2016 FILED: Answering Brief of Receiver/Appellee David M Reaves; Certificate of Compliance; Certificate of Service
31. 4-Apr-2016 FILED: Appellee's Appendix Volume 1 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
32. 4-Apr-2016 FILED: Appellee's Appendix Volume 2 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
33. 5-Apr-2016 RECEIPT No.: 2016-00410 ; \$140.00, Check Number: 407724, Applied to: IMH SPECIAL ASSET NT 168 et al. - Overpayment Class B (\$140.00) Paid for: - By Snell & Wilmer LLP (Memo: X-Ref 2015-01452; Duplicate Pmt - See Rcpt 2015-01408 - Refund Needed)
34. 5-Apr-2016 VOID RECEIPT No.: 2015-01452 - \$-140.00, Check Number: #407724, - Applied to: IMH SPECIAL ASSET NT 168 et al. - Class B Filing Fee (\$-140.00) Paid for: Snell & Wilmer LLP - By: Snell & Wilmer LLP VOID Reason: x-ref 2016-00410 incorrect receivable type refund needed. alc
35. 7-Apr-2016 RECEIPT No.: 2016-00419 ; \$140.00, Authorization: 97014406661, Applied to: REAVES LAW GROUP/DAVID REAVES - Class B Filing Fee (\$140.00) Paid for: Reaves Law Group - By Integrated Resource Systems
36. 21-Apr-2016 FILED: Motion to Extend Time to file Reply Brief; Certificate of Service (Appellant)

Court of Appeals, Division One

Civil Appeal

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IMH et al. v. MANIATIS

53 PROCEEDING ENTRIES

37. 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
38. 27-Apr-2016 FILED: Motion to Strike Answering Brief of Reciver David M. Reaves; Certificate of Service (Appellant)(Duplicate)
39. 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)
40. 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)
41. 12-May-2016 FILED: Returned US Mail, Order RE: Extension of Time - Reply Briefs dated 04/25/2016, addressed to Aperia Communities LLLP, Undeliverable
42. 23-May-2016 FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant Maniati)
43. 25-May-2016 FILED: Letter, 05/25/2016, from Court to Snell and Wilmer LLP, refunding \$140.00 due to duplicate payment
44. 31-May-2016 ORDERED: Motion to Strike Answering Brief of Receiver David M. Reaves (Appellant) = DENIED. Hon Andrew W Gould - Author
45. 7-Jun-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
46. 8-Jun-2016 FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellants Eladio)
47. 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
48. 23-Jun-2016 FILED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee)
49. 7-Jul-2016 CLNDR: CONFERENCE, Department D, 9-28-16, COURTROOM 2.
50. 15-Jul-2016 ORDERED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee) = DENIED. Hon Andrew W Gould - Author
51. 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
52. 27-Dec-2016 FILED: Memorandum Decision Distribution List
53. 10-Jan-2017 FILED: Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Appellee)