Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0646 — 34 DEGREES v. MT. VIEW/MALOUFF

Appellate Case Information

Case Filed: 29-Sep-2015

Case Closed: 26-Jan-2017

Decision

Dept/Composition

Department E

Hon. Kent E Cattani
Hon. Lawrence F Winthrop
Hon. Maurice Portley

Side 1. 34 DEGREES NORTH, LLC, an Arizona limited liability company,, Plaintiff/Appellant

(Litigant Group) 34 DEGREES NORTH et al.

- **34 Degrees North LLC**

Attorneys for: Plaintiffs/Appellant
Wayne B Ducharme, Esq. (AZ Bar No. 10847)

(Litigant Group) JOHN BOTKIN, and MAUREEN BOTKIN, husband and wife (dismiss per order filed 10/20/15)

- **Maureen Botkin**
- **John Botkin**

Side 2. MOUNTAIN VIEW CONSTRUCTION, LLC, an Arizona limited liability company; MALOUFF AND COMPANY MASONRY, LLC, an Arizona limited liability company,, Defendant/Appellee

(Litigant Group) MOUNTAIN VIEW CONSTRUCTION

- **Mountain View Construction LLC**

Attorneys for: Defendants/Appellees Mountain View
Matthew Jeremy Pierce, Esq. (AZ Bar No. 23977)
Tara C Nordquist, Esq. (AZ Bar No. 31731)
J Brent Welker, Esq. (AZ Bar No. 11762)

(Litigant Group) MALOUFF AND COMPANY MASONRY LLC

- **Malouff and Company Masonry LLC**

Attorneys for: Defendant/Appellee Malouff
Richard L Righi, Esq. (AZ Bar No. 14879)

(Litigant Group) RLI INSURANCE COMPANY - Dismissed per order filed 2/25/16

- **RLI Insurance Company**

CASE STATUS

Jan 26, 2017....Case Closed

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2012-011784	Breach of Contract; Negligence; Professional Negligence; Contractor's Bond		Roger E Brodman, Authoring Judge of Order		

CASE DECISION

13-Dec-2016 MEMORANDUM DECISION

Lawrence Winthrop.....Author
Kent Cattani.....Concur
Maurice Portley.....Concur

Filed: **13-Dec-2016** Mandate: **26-Jan-2017**

Decision Disposition
Affirmed

50 PROCEEDING ENTRIES

1.	29-Sep-2015	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/31/15
2.	29-Sep-2015	FILED: e-Record on Appeal: Instruments/Minute Entries
3.	30-Sep-2015	FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
4.	12-Oct-2015	FILED: Notice of Filing Appellants' Filing Fee; Certificate of Service and Notice of Filing Appellants' Filing Fee (Appellant)
5.	15-Oct-2015	RECEIPT No.: 2015-01426 ; $280.00, Authorization: #87017872181, Applied to: 34 DEGREES NORTH et al. - Class A Filing Fee ($280.00) Paid for: Ducharme Law Firm - By Integrated Resource Systems IN

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

50 PROCEEDING ENTRIES

6.	16-Oct-2015	FILED: Notice of Withdrawal of Appeal By Plaintiffs/Appellants John Botkin and Maureen Botkin; Certificate of Service of Notice of Withdrawal of Appeal by John Botkin and Maureen Botkin (Appellant)
7.	20-Oct-2015	FILED: Case Management Statement (Appellant)
8.	20-Oct-2015	ORDERED: Notice of Withdrawal of Appeal By Plaintiffs/Appellants John Botkin and Maureen Botkin (Appellant) = GRANTED and dismissing appellants John Botkin and Maureen Botkin from this appeal. FURTHER ORDERED: Amending caption in this appeal by removing John Botkin and Maureen Botkin as appellants. Melina Brill ProTem Judge - Author
9.	30-Oct-2015	FILED: Appellant's Motion to Extend Time to File Opening Brief; Certificate of Service Appellant's Motion to Extend Time (Appellant)
10.	2-Nov-2015	ORDERED: Extending the time for filing the Opening Brief to/including 12/14/15. Melina Brill ProTem Judge - Author
11.	13-Nov-2015	FILED: Notice of Appearance; Certificate of Service (Appellee)
12.	16-Nov-2015	FILED: Appellee's Notice re: Appellee Malouff's and Mountain Views Fees Due/Appellant's Brief Due
13.	18-Nov-2015	RECEIPT No.: 2015-01611 ; $140.00, Authorization: #21016858430, Applied to: RLI INSURANCE COMPANY - Class B Filing Fee ($140.00) Paid for: Jennings Haug & Cunningham LLP - By Integrated Resource Systems IN
14.	30-Nov-2015	RECEIPT No.: 2015-01660 ; $140.00, Check Number: #34907, Applied to: MOUNTAIN VIEW CONSTRUCTION - Class B Filing Fee ($140.00) Paid for: - By Warner Angle Hallam Jackson & Formanek PLC
15.	2-Dec-2015	FILED: Notice of Payment of Appellee's Filing Fee; Certificate of Service (Appellee Malouff, et al.)
16.	3-Dec-2015	FILED: Notice of Payment of Appellee's Filing Fee; Certificate of Service (Appellee Mountain View Construction)
17.	7-Dec-2015	RECEIPT No.: 2015-01680 ; $140.00, Authorization: #41005112693, Applied to: MALOUFF AND COMPANY MASONRY LLC - Class B Filing Fee ($140.00) Paid for: Righi Fitch Law Group PLLC - By Integrated Resource Systems IN
18.	9-Dec-2015	FILED: Appellant's Motion to Extend Time to File Opening Brief; Certificate of Service (Appellant)
19.	14-Dec-2015	ORDERED: Appellant's Motion to Extend Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 12-14-2015 to Monday, 01-04-2016. Melina Brill ProTem Judge - Author
20.	4-Jan-2016	FILED: Appellant's Opening Brief; Certificate of Compliance re Appellant's Opening Brief; Certificate of Service Opening Brief (Appellant)
21.	4-Jan-2016	FILED: Appendix to Appellant's Opening Brief; Exhibits 2-4; Exhibits 5-6; Exhibits 7-9 (Appellant)
22.	18-Feb-2016	FILED: Defendants/Appellees Malouff and Company Masonry, LLC's Answering Brief to Plaintiff/Appellant's Opening Brief; Defendant/Appellee Malouff and Company Masonry, LLC's Certificate of Compliance; Certificate of Service Defendant/Appellee Malouff and Company Masonry, LLC's Response Brief
23.	18-Feb-2016	FILED: Appendix to Defendant/Appellee Malouff and Company Masonry, LLC's Response Brief
24.	22-Feb-2016	FILED: Appellee Mountain View Construction, LLC's Answering Brief; Certificate of Compliance; Certificate of Service
25.	24-Feb-2016	FILED: Stipulation to Dismiss Appeal as to RLI Insurance Company; Certificate of Service Stipulation to Dismiss Appeal as to RLI Insurance Company (Appellant)
26.	25-Feb-2016	ORDERED: Stipulation to Dismiss Appeal as to RLI Insurance Company; (Appellant) = GRANTED and dismissing RLI Insurance company from this appeal. Barbara Vidal Vaught ProTem Judge - Author
27.	14-Mar-2016	FILED: Appellant's Reply Brief; Certificate of Compliance Reply Brief; Certificate of Service Reply Brief (Appellant)
28.	22-Mar-2016	FILED: Request for Oral Argument; Certificate of Service (Appellee)
29.	23-Mar-2016	FILED: Supplemental Citation of Legal Authority; Certificate of Service (Appellant)
30.	29-Mar-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
31.	4-Apr-2016	FILED: Supplemented Superior Court e-Record with Revised Index of Record

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50 PROCEEDING ENTRIES

32.	12-Apr-2016	ORDERED: Request for Oral Argument (Appellee) = GRANTED. Hon Michael J Brown - Author
33.	6-May-2016	FILED: Motion to Strike; Certificate of Service (Appellee)
34.	19-May-2016	FILED: Appellant's Response to Motion to Strike; Certificate of Service (Appellant)
35.	31-May-2016	FILED: Reply in Support of Motion to Strike; Certificate of Service (Appellee)
36.	2-Jun-2016	ORDERED: Deferring ruling of motion to strike to merits panel. Melina Brill ProTem Judge - Author
37.	26-Sep-2016	CLNDR: MONTHLY COURT CASE CALENDAR, Department E, 11-21-16, 01:30 pm, COURTROOM 2.
38.	6-Oct-2016	FILED: Notice of Oral Argument
39.	6-Oct-2016	FILED: Receipt for Notice of Oral Argument, signed by Wayne B Ducharme on 10/06/2016 (Appellant)
40.	6-Oct-2016	FILED: Receipt for Notice of Oral Argument, signed by Matthew J Pierce on 10/06/2016 (Appellee)
41.	2-Nov-2016	FILED: Receipt for Notice of Oral Argument, signed by Richard L Righi on 10/06/2016 (Appellee)
42.	21-Nov-2016	FILED: Notice of Filing Partial Deposition Transcript; Certificate of Service (Appellant)
43.	21-Nov-2016	FILED: Sign-in Sheet/Case is Under Advisement as of 11/21/2016 (Dept E)
44.	13-Dec-2016	MEMORANDUM DECISION (Affirmed) Hon Lawrence F Winthrop - Author; Hon Kent E Cattani - Concur; Hon Maurice Portley - Concur
45.	13-Dec-2016	FILED: Memorandum Decision Distribution List
46.	19-Dec-2016	FILED: Verified Statement of Costs; Certificate of Service (Appellee)
47.	21-Dec-2016	FILED: Defendant Malouff and Company Masonry, LLC's Verified Statement of Costs; Certificate of Service of Defendant/Appellee Malouff and Company Masonry, LLC's Verified Statement of Costs (Appellee)
48.	17-Jan-2017	ORDERED: awarding Defendant/Appellee (Mountain View) their costs in the amount of $226.00. Amy M Wood - Author
49.	17-Jan-2017	ORDERED: awarding Defendant/Appellee (Malouff) their costs in the amount of $194.00. Amy M Wood - Author
50.	26-Jan-2017	FILED: Mandate, No record returned to superior court.

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