Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0728 ERLICK v. DAVIS

Appellate Case Information

Case Filed: 3-Nov-2015

Case Closed:

Dept/Composition

Side 1. In the Matter of the Estate of:
MICHELLE E. DAVIS,

Deceased. _____
STEVE ERLICK, as Personal Representative of the ESTATE OF MICHELE E. DAVIS, Petitioner/Appellee

(Litigant Group) STEVE ERLICK

- **Steve Erlick**

Attorneys for: Petitioner/Appellee
Emily B Kile, Esq. (AZ Bar No. 18819)
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Stephen J P Kupiszewski, Esq. (AZ Bar No. 13290)

Side 2. JOHN DAVIS, Respondent/Appellant

(Litigant Group) JOHN DAVIS

- **John Davis** PRO SE

CASE STATUS

Nov 10, 2016....Motion for Reconsideration Pending

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	PB2015-001198	Emergency Petition for Formal Appointment of Special Administrator		Kerstin G LeMaire, Authoring Judge of Order		

PENDING MATTER

General Motion Filed: 10-Nov-2016

Motion for Reconsideration for Motion Requesting to Continue the Stay of this Appeal (Appellant Pro Per)

2 CASE DECISIONS

28-Jul-2016 OPINION

Samuel Thumma.....Author
Kent Cattani.....Concur
Randall Howe.....Concur

Filed: **28-Jul-2016** Mandate:

Decision Disposition
Jurisdiction Revested

27-Oct-2016 ORDER

* ORDERED: Motion Requesting to Continue the Stay of this Appeal (Appellant Pro Per) = DENIED. FURTHER ORDERED: terminating the stay of this appeal. FURTHER ORDERED: dismissing this appeal for lack of jurisdiction. Nothing precludes appellant from filing

Filed: **27-Oct-2016** Mandate:

Decision Disposition
Dismissed

Melina Brill.....Author

51 PROCEEDING ENTRIES

1. 3-Nov-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 10/05/15

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Court of Appeals, Division One

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2.	3-Nov-2015	FILED: e-Record on Appeal: Instruments/Minute Entries
3.	6-Nov-2015	FILED: Notice to Parties re: Appellant's Fee Deferred/Appellee's Fee Due/Case Management Statement/Brief Due
4.	6-Nov-2015	ORDERED: the deferral remains in effect unless there is a change in Appellant's financial circumstances. Ruth Willingham - Author
5.	20-Nov-2015	FILED: Notice of Appearance; Notice of Appearance (duplicate copy) (Appellee)
6.	23-Nov-2015	FILED: Courtesy Copy of Notice of Appearance (Appellee)
7.	25-Nov-2015	RECEIPT No.: 2015-01651 ; $140.00, Authorization: #28020233170, Applied to: STEVE ERLICK - Class B Filing Fee ($140.00) Paid for: Kile & Kupiszewski Law Firm LLC - By Integrated Resource Systems
8.	25-Nov-2015	FILED: Case Management Statement (Appellant Pro Per)
9.	31-Dec-2015	FILED: Notice of Transcripts (Appellant Pro Per)
10.	31-Dec-2015	FILED: Appellents [sic] Opening Brief (Appellant Pro Per)
11.	16-Feb-2016	FILED: Appellee's Answering Brief; Appellee's Answering Brief (duplicate); Appellee's Answering Brief (duplicate)
12.	19-Feb-2016	RECEIPT No.: 2016-00226 ; $140.00, Authorization: 49014944524, Applied to: STEVE ERLICK - Overpayment Class B ($140.00) Paid for: Kile & Kupiszewski Law Firm LLC - By Integrated Resource Systems IN (Memo: ex ref 2015-01651 refund needed)
13.	4-Mar-2016	FILED: Appellant's Rebuttal to Appellee's Answering Brief (Appellant Pro Per)
14.	11-Mar-2016	FILED: Letter, 3/11/16, from Court to Appellee, re: refunding of monies submitted in error ($140.00 duplicate payment)
15.	17-Mar-2016	FILED: Appellee's Surreply to Appellent's Rebuttal to Appellee's Answer Brief
16.	28-Mar-2016	FILED: Appellant's Response In Opposition to Appellee's Motion to Supplement the Record; Certificate of Service (Appellant)
17.	29-Mar-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
18.	29-Mar-2016	FILED: Motion to Strike Appellees Surruply (sic) to Appellants Rebuttal to Appellees Answer Brief (Appellant Pro Per)
19.	31-Mar-2016	ORDERED: consolidating cases 1 CA-CV 15-0047, 1 CA-CV 15-0107, 1 CA-CV 15-0127, 1 CA-CV 15-0249, 1 CA-CV 15-375, 1 CA-CV-15-0508, 1 CA-CV 15-0513, 1 CA-CV 15-0624, 1 CA-CV 15-0689, 1 CA-CV 15-0728, 1 CA-CV 15-0753, 1 CA-CV 16-0002 and 1 CA-CV 16-0042 for a limited purpose of considering this court's appellate jurisdiction in these cases. Case No 1 CA-CV 15-0047 is designated as primary number and above caption (or a shortened version listing at a minimum captions in Case No. 1 CA-CV 15-0047 and case number(s) in which filer is a party) shall be used on all future documents filed. FURTHER ORDERED: Directing any party to this consolidated appeal wishing to be heard on issue of whether order being appeal from in their specific case(s) must contain Rule 54 (c) language may file a memorandum, not to exceed 10 pages, on/before 4/20/16. No responses to memoranda will be permitted. Court will only accept a memorandum addressing this issue if filing party has paid filing fee in case number(s) in which filer is a party. FURTHER ORDERED: Staying all other aspects of this consolidated appeal that do not relate to Rule 54 (c) issue pending further order. Hon Kent E Cattani Judge - Author
20.	4-Apr-2016	FILED: Supplemented Superior Court e-Record with Revised Index of Record
21.	11-Apr-2016	FILED: Appellees' Reply in Support of Motion to Supplement the Record on Appeal; Certificate of Filing and Service Regarding Appellees' Reply in Support of Motion to Supplement the Record on Appeal (Appellees re 1 CA-CV 15-0107)
22.	12-Apr-2016	FILED: Appellee's Rule 54 (C) Memorandum; Proof of Service (Appellee Erlick - CV-15-0728)
23.	3-May-2016	ORDERED: any response to motion to strike (surreply in CV-15-0728) must be filed on/before 5/13/16. Appellant may file a reply in accordance with ARCAP 6 (a) (2). FURTHER ORDERED: Court will rule on motion following expiration of time for a response and, if applicable, a reply. Melina Brill ProTem Judge - Author
24.	11-May-2016	FILED: Appellee's Response to Appellants Motion to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)

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51 PROCEEDING ENTRIES

25.	26-May-2016	ORDERED: Consolidating case 1 CA-CV 15-0276 with previously consolidated case 1 CA-CV 15-0047 for sole purpose of considering Court's appellate jurisdiction. Case No. 1 CA-CV 15-0047 is designated primary number. FURTHER ORDERED: Removing case 1 CA-CV 16-0002 from this consolidated appeal. FURTHER ORDERED continuing stay of this consolidated appeal until further order. FURTHER ODERED: Any party in 1 CA-CV 15-0276 that wishes to be heard on issue of order being appealed from is required to contain Rule 54(c) language may file a memorandum on/before 06/06/2016. Hon Kent E Cattani Judge - Author
26.	27-May-2016	FILED: Appellants Reply to Appellees Response to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
27.	31-May-2016	ORDERED: Motion to Strike Appellees Surruply (sic) to Appellants Rebuttal to Appellees Answer Brief (Appellant Pro Per) = DENIED. FURTHER ORDERED: Deferring ruling on surreply to panel that considers this matter. Melina Brill ProTem Judge - Author
28.	2-Jun-2016	FILED: Motion by Tri-Rentals, Inc. and Classic Party Rentals, Inc. to Remove Their Appeal from Consolidation and Lift Stay; Certificate of Service; Exhibit A (Appellants re 1 CA-CV 16-0042)
29.	6-Jun-2016	FILED: Plaintiff's Response in Support of Motion by Tri-Rentals, Inc. and Class Party Rentals, Inc. to Remove Thier Appeal from Consolidation and Lift Stay; Certificate of Service (Appellee re 1 CA-CV 16-0042)
30.	7-Jun-2016	ORDERED: Removing CV 15-0276 from consolidated appeal. Hon Kent E Cattani Judge - Author
31.	7-Jun-2016	ORDERED: Removing CV 16-0042 from consolidated appeal. Hon Kent E Cattani Judge - Author
32.	10-Jun-2016	FILED: Appellee's Motion to Strike; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)
33.	17-Jun-2016	FILED: Motion for Reconsideration Concerning Appellants Motion to Strike Appellees Surreply (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
34.	22-Jun-2016	ORDERED: Consolidating case 1 CA-CV 16-0294 with case 1 CA-CV 15-0047 for sole purpose of considering this court's appellate jurisdiction. Case 1 CA-CV 15-0047 is designated the primary number. FURTHER ORDERED: Continuing stay of this consolidated appeal until further order. FURTHER ORDERED: Any party in case 1 CA-CV 16-0294 that wishes to be heard on issue regarding order containing Rule 54(c) language, memorandum due 07/05/2016. Hon Kent E Cattani Judge - Author
35.	24-Jun-2016	FILED: Letter, 6/24/16, from Court to Debra Lavoie, Motion to Joinder/Motion to Intervene cannot be accepted without completed Application for Deferral/Waiver
36.	27-Jun-2016	FILED: Motion for Appointment of Counsel (Appellant Pro Per)
37.	29-Jun-2016	FILED: Appellee's Response to Notice to the Court that Appellee Will Consider Appellants Request for Sanctions as Part of Appellants Motion for Reconsideration and Will not Respond Unless Requested by the Court; Proof of Service (Appellee)
38.	29-Jun-2016	FILED: Appellee's Reply to Appellant's Response to Appellee's Motion to Strike; Proof of Service (Appellee)
39.	29-Jun-2016	ORDERED: Motion for Appointment of Counsel (Appellant Pro Per) = DENIED. Melina Brill ProTem Judge - Author
40.	6-Jul-2016	ORDERED: Denying Erlick's motion to strike Davis's reply. FURTHER ORDERED: Denying Davis's motion for reconsideration. FURTHER ORDERED: Denying Erlick's motion to strike Lavoie's rebuttal because that pleading was not accepted for filing. FURTHER ORDERED: Taking no action on Erlick's response to Lavoie's motion for permissive joinder and motion to intervene. Hon Maurice Portley - Author
41.	11-Jul-2016	FILED: Courtesy Copy - Copy of my Medical Benefits for State of Calif Gov. Program (Debra Lavoie)
42.	28-Jul-2016	OPINION (Jurisdiction Revested) Hon Samuel A Thumma - Author; Hon Kent E Cattani Judge - Concur; Hon Randall M Howe - Concur
43.	28-Jul-2016	FILED: Opinion Distribution List
44.	28-Jul-2016	ORDERED: deconsolidating this appeal from 1 CA-CV 15-0047. FURTHER ORDERED: continuing stay of appeal to/including 9/12/2016 and revesting jurisdiction to superior court to permit that court to consider an application by appellant for a signed order with certification of finality pursuant to Rule 54(c). FURTHER ORDERED: superior court rule on the application. FURTHER ORDERED: appellant file copy of signed order within 10 days of its entry. Once clerk of court has received order, appeal will be automatically reinstated. FURTHER ORDERED: if appeal has not been reinstated by filing of signed order by 9/12/2016, appellant shall file request to continue stay of appeal or appeal may be dismissed. Hon Kent E Cattani Judge - Author

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51 PROCEEDING ENTRIES

45.	16-Sep-2016	FILED: Motion Requesting to Continue the Stay of This Appeal (Appellant Pro Per)
46.	20-Sep-2016	ORDERED: Motion Requesting to Continue the Stay of This Appeal (Appellant Pro Per) = GRANTED. FURTHER ORDERED: continuing stay of this appeal to/including 10/27/2016, for purpose set forth in court's 07/28/2016 order. FURTHER ORDERED: appellant shall file a copy of the ruling on his motion within 10 days after entry. Melina Brill ProTem Judge - Author
47.	11-Oct-2016	FILED: Supplemented Superior Court e-Record with Revised Index of Record
48.	21-Oct-2016	FILED: Motion Requesting to Continue the Stay of this Appeal (Appellant Pro Per)
49.	27-Oct-2016	ORDERED: Motion Requesting to Continue the Stay of this Appeal (Appellant Pro Per) = DENIED. FURTHER ORDERED: terminating the stay of this appeal. FURTHER ORDERED: dismissing this appeal for lack of jurisdiction. Nothing precludes appellant from filing a timely notice of appeal after entry of a final, appealable order. Melina Brill ProTem Judge - Author
50.	10-Nov-2016	FILED: Motion for Reconsideration for Motion Requesting to Continue the Stay of this Appeal (Appellant Pro Per)
51.	18-Jan-2017	ORDERED: directing the superior court to rule on motion for reconsideration on/before 02/17/2017. FURTHER ORDERED: within 15 days after superior court rules on motion for reconsideration, appellant shall file a notice with this court with ruling attached. FURTHER ORDERED: deferring a ruling on subject motion for reconsideration until after superior court rules on motion for reconsideration. Hon Kenton D Jones - Author

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