

**Court of Appeals, Division One**  
**Civil Appeal**

**1 CA-CV 12-0726**

**FIDELITY v. ML/CMLC**

**Appellate Case Information**

Case Filed: 26-Oct-2012  
Case Closed:

**Dept/Composition**

**Department A**  
Hon. Kent E Cattani  
Hon. Margaret H Downie  
Hon. Michael J Brown

Consolidated with: 1 CA-CV 12-0721

**Side 1. ML MANAGER LLC, Defendant/Appellee-Cross Appellant**

(Litigant Group) ML MANAGER LLC et al.

- ML Manager LLC
- Centerpoint I Loan LLC
- Centerpoint II Loan LLC
- Robert L Barnes
- Harold Christ Ltd
- Charles Goldstein
- Charles Goldstein Emergency Services PC
- Penny Hardaway Investments LLC
- G Grant Lyon
- Morris A Kaplan  
AZ Bar No. 2706  
[Current Member]  
Admitted 4/3/71
- Goldman & Kaplan Ltd Defined Benefit Plan
- Sarah A Lisa-Petrauschke
- Brian M Petrauschke
- Kimberly K Roberts
- Frederick A Taunton
- Laura Martini
- Dale C Taunton
- Lorinda S McMullen

**Attorneys for: Appellees/Cross-Appellants ML et al**

Keith L Hendricks, Esq. (AZ Bar No. 12750)  
Joshua T Greer, Esq. (AZ Bar No. 25508)

**Side 2. CENTERPOINT MECHANIC'S LIEN CLAIMS LLC, Appellee/Cross-Appellant**

(Litigant Group) CENTERPOINT MECHANIC'S LIEN CLAIMS LLC

- Centerpoint Mechanic Lien Claims LLC, Intervenor/Appellee-Cross Appellant

**Attorneys - Appellee/Cross-Appellant Centerpoint**

Richard M Lorenzen, Esq. (AZ Bar No. 6787)  
Philip R Higdon, Esq. (AZ Bar No. 3499)  
Rusty D Crandell, Esq. (AZ Bar No. 26224)

**Side 3. FIDELITY NATIONAL TITLE INSURANCE COMPANY, Appellant/Cross-Appellee**

(Litigant Group) FIDELITY NATIONAL TITLE INSURANCE COMPANY

- Fidelity National Title Insurance Company, Defendant, Intervenor, Appellant

**Attorneys for: Appellant/Cross-Appellee Fidelity**

Robert R Berk, Esq. (AZ Bar No. 10162)  
Lori L Voepel, Esq. (AZ Bar No. 15342)  
Jennifer B Anderson, Esq. (AZ Bar No. 15605)

**Side 4. UNIVERSAL-SCP 1 LP, Defendant/Appellee**

(Litigant Group) UNIVERSAL-SCP 1 LP

- Universal - 1 SCP LP
- VR CP Funding LP

**Attorneys for: Defendant/Appellee Universal**

J Lawrence McCormley, Esq. (AZ Bar No. 5005)

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**CASE STATUS**

Sep 11, 2015....Motion for Reconsideration Pending

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PREDECESSOR CASE(S) +	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2008-024849	Mechanic's Lien Foreclosure; Breach of Contract; Unjust Enrichment; Attorneys Fees		Edward O Burke, Authoring Judge of Order		
MAR CV2008-032460					
MAR CV2009-036739					
MAR CV2009-036821					

**DESCENDENT CASE(S)**

ASC CV-13-0325-SA

**3 PENDING MATTERS**

**General Motion** Filed: 11-Sep-2015  
*Appellants'/Cross-Appellees' Statement of Costs (Appellant's/Cross Appellees Fidelity et al.)*

*21/Sep/2015 FILED: Appellants'/Cross-Appellees' Amended Statement of Costs (Appellant's/Cross Appellees Fidelity et al.)*

**General Motion** Filed: 11-Sep-2015  
*\* Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims LLC's Motion for Reconsideration, or in the Alternative, Clarification of the Court's August 27, 2015 Opinion (Appellee/Cross-Appellant Centerpoint)*

**General Motion** Filed: 11-Sep-2015  
*Appellant/Cross-Appellees' Motion for Partial Reconsideration (Appellant)*

**CASE DECISION**

27-Aug-2015 **OPINION**

**Kent Cattani**.....Author  
**Margaret Downie**.....Concur  
**Michael Brown**.....Concur

Filed: **27-Aug-2015** Mandate:

Decision Disposition
<b>Reversed</b>

**DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)**

**1 CA-CV 12-0721** FIDELITY v. CENTERPOINT

**77 PROCEEDING ENTRIES**

- 26-Oct-2012 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 09/19/12; (ML) Cross Appeal filed 10/1/12; (Centerpoint) Cross Appeal filed 10/1/12  
Bond filed in Superior Court: (Fidelity) 9/25/12 (Centerpoint) 10/4/12; (ML) 10/4/12  
Docketing Statement filed in Superior Court: (Fidelity) 10/10/12; Cross Appeal Docketing Statement filed in Superior Court: 10/16/12 (ML); Cross Appeal Docketing Statement filed in Superior Court: 10/16/12 (Centerpoint)
- 26-Oct-2012 FILED: e-Record on Appeal: (CV2008-024849)  
Instruments/Minute Entries  
Exhibits: (not sent at this time)
- 26-Oct-2012 FILED: e-Record on Appeal: (CV2008-032460)  
Instruments/Minute Entries  
Exhibits: none
- 26-Oct-2012 FILED: e-Record on Appeal: (CV2009-036739)  
Instruments/Minute Entries  
Exhibits: none
- 26-Oct-2012 FILED: e-Record on Appeal: (CV2009-036861)  
Instruments/Minute Entries  
Exhibits: none

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6. 26-Oct-2012 FILED: e-Record on Appeal: (CV2009-036821)  
Instruments/Minute Entries  
Exhibits: none
7. 26-Oct-2012 FILED: e-Record on Appeal: (CV2009-036828)  
Instruments/Minute Entries  
Exhibits: none
8. 2-Nov-2012 FILED: Notice to Counsel re: Appellant's Fee/Brief Due
9. 5-Nov-2012 FILED: Supplemented Superior Court e-Record with Revised Index of Record [Includes Amended Notice of Cross-Appeal filed 11/2/12; Amended Notice of Appeal filed 10/31/12]
10. 14-Nov-2012 FILED: Application to Withdraw As Counsel of Record (Timothy J. Thomason and Mariscal Weeks McIntyre & Friedlander PA); Certificate of Service (Appellant/Cross Appellee Fidelity)
11. 19-Nov-2012 FILED: Notice of Paying Filing Fee; Certificate of Service (Appellant/Cross Appellee Fidelity)
12. 19-Nov-2012 FILED: Notice of Appearance (Jennifer B. Anderson of Jones Skelton & Hochuli PLC); Certificate of Service (Appellant/Cross Appellee Fidelity)
13. 21-Nov-2012 RECEIPT No.: 2012-01675 ; \$280.00, Authorization: #25017038848, Applied to: FIDELITY NATIONAL TITLE INSURANCE COMPANY - Appellant's Filing Fee Paid for: Jones Skelton & Hochuli PLC - By Integrated Resource Systems
14. 26-Nov-2012 FILED: Appellees/Cross Appellants Notice re: Cross-Appellants' Fees/Appellant's Brief Due
15. 28-Nov-2012 ORDERED: Application to Withdraw As Counsel of Record (Timothy J. Thomason and Mariscal Weeks McIntyre & Friedlander PA) (Appellant/Cross Appellee Fidelity) = GRANTED. Melina Brill ProTem Judge - Author
16. 28-Nov-2012 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellee/Cross-Appellant ML Manager LLC et al.)
17. 28-Nov-2012 FILED: Notice of Paying Filing Fee; Certificate of Service (Appellee/Cross-Appellant Centerpoint)
18. 30-Nov-2012 RECEIPT No.: 2012-01705 ; \$280.00, Authorization: #34013045501, Applied to: ML MANAGER LLC et al. - Appellee/Cross-Appellant's Filing Fee Paid for: Moyes Sellers & Hendricks - By Integrated Resource Systems
19. 30-Nov-2012 RECEIPT No.: 2012-01706 ; \$280.00, Authorization: #34013045501, Applied to: CENTERPOINT MECHANIC'S LIEN CLAIMS LLC - Appellee/Cross-Appellant's Filing Fee Paid for: Perkins Coie LLP - By Integrated Resource Systems
20. 5-Dec-2012 FILED: Unopposed Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
21. 7-Dec-2012 ORDERED: extending the time for filing the opening brief to and including 1/14/13. Absent compelling circumstances, no further extension will be granted. Melina Brill ProTem Judge - Author
22. 4-Jan-2013 FILED: Motion to Extend Time to File Opening Brief Pending Ruling on Motion to Consolidate Appeal Case No. 1 CA-CV 12-0721 With Case No. 1 CA-CV 12-0726; Certificate of Service; Attachment to Motion to Extend (Appellant)
23. 8-Jan-2013 ORDERED: extending the time for filing the opening brief until after the court rules on the pending motion to consolidate. The order ruling on the motion will set the date for filing the opening brief. Melina Brill ProTem Judge - Author
24. 12-Feb-2013 ORDERED: Motion to Consolidate Appeal Case No. 1 CA-CV 12-0721 With Case No. 1 CA-CV 12-0726 (Appellant) = GRANTED. FURTHER ORDERED: opening brief shall be filed on or before 3/15/13. Hon Diane M Johnsen - Author
25. 19-Feb-2013 FILED: Supplemented Superior Court e-Record with Revised Index of Record
26. 6-Mar-2013 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims, LLC's Motion to Dismiss Purported Appeal by Plaintiff/Intervenor Commonwealth Land Title Insurance Company; Certificate of Service (Appellee)
27. 11-Mar-2013 FILED: Appellees' Centerpoint I Loan LLC, Centerpoint II Loan LLC and ML Manager LLC's Joinder to Centerpoint Mechanic's Lien Claims, LLC's Motion to Dismiss Appeal of Commonwealth Land Title Insurance Company; Certificate of Service (Cross-Appellant)
28. 14-Mar-2013 FILED: Unopposed Motion For Extension of Time to File Consolidated Opening Brief; Certificate of Service (Appellant)
29. 18-Mar-2013 ORDERED: Unopposed Motion For Extension of Time to File Consolidated Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Friday, 03-15-2013 to Friday, 03-29-2013 Melina Brill ProTem Judge - Author

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30. 25-Mar-2013 FILED: Fidelity National Title Insurance Company, Lawyers Title Insurance Company, and Commonwealth Land Title Insurance Company's Response To Centerpoint Mechanic Lien Claims, LLC's Motion To Dismiss Purported Appeal By Plaintiff/Intervenor Commonwealth Land Title Insurance Company and Response to Appellees' Centerpoint 1 Loan LLC Centerpoint 2 Loan LLC and ML Manager LLC's Joinder to Centerpoint Mechanic Lien Claims LLC's Motion to Dismiss Appeal of Commonwealth Land Title Insurance Company; Certificate of Service; Exhibits A-C in support of Response to Motion to Dismiss; Exhibits A-G in support of Response to Motion to Dismiss (Appellant)
31. 27-Mar-2013 FILED: Notice of Appearance; Certificate of Service (Appellee Centerpoint)
32. 29-Mar-2013 FILED: Consolidated Opening Brief of Appellants Fidelity National Title Insurance, et al.; Certificate of Compliance; Certificate of Service (Appellant)
33. 29-Mar-2013 FILED: Appendix of Appellants Fidelity National Title Insurance Company, et al.; Appendix A; Appendix K (Appellant)
34. 29-Mar-2013 FILED: Motion for Leave to File Brief in Excess of 14,000 Words; Certificate of Service (Appellant)
35. 8-Apr-2013 FILED: Appellees' Centerpoint I Loan Llc, Centerpoint Ii Loan Llc and MI Manager Llc's Reply In Support of Their Joinder to Centerpoint Mechanic's Lien Claims, Llc's Motion to Dismiss Appeal of Commonwealth Land Title Insurance Company; Certificate of Service (Appellee ML Manager LLC)
36. 8-Apr-2013 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims, LLC's Motion to Stay Briefing and Motion for Expedited Consideration of its Motion to Dismiss; Certificate of Service (Appellee)
37. 8-Apr-2013 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims, LLC's Reply in Support of its Motion to Dismiss Purported Appeal by Plaintiff/Intervenor Commonwealth Land Title Insurance Company; Certificate of Service; Exhibit A; Exhibit B (Appellee)
38. 15-Apr-2013 ORDERED: granting appellees/cross-appellants' motion and dismissing Commonwealth Limited Title Insurance Company from appeal 1 CA-CV 12-0726. FURTHER ORDERED: directing appellants and appellees/cross-appellants to file memoranda within 10 calendar days from the date of this order informing the court whether an amended opening brief should be filed. Hon Diane M Johnsen - Author
39. 22-Apr-2013 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims, LLC's Memorandum Regarding the Necessity of an Amended Opening Brief; Certificate of Service (Appellee/Cross-Appellant Centerpoint)
40. 25-Apr-2013 FILED: Appellees' Centerpoint I Loan LLC, Centerpoint II Loan LLC and ML Manager LLC's Joinder to Centerpoint Mechanic's Lien Claims, LLC's Memorandum Regarding the Necessity of an Amended Opening Brief; Certificate of Service (Appellee)
41. 25-Apr-2013 FILED: Memorandum Regarding Whether An Amended Opening Brief Should Be Filed; Certificate of Service (Appellant)
42. 25-Apr-2013 FILED: Notice of Appearance; Certificate of Service (Appellant)
43. 30-Apr-2013 FILED: Motion to Reconsider Dismissal of Commonwealth Limited Title Insurance Co. or, In the Alternative, Motion for Summary Remand for New Reasonableness Hearing; Certificate of Compliance; Certificate of Service; Exhibits 1 through 6 to Motion to Reconsider, etc. (Appellant)
44. 8-May-2013 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims, LLC's Notice Regarding Briefing Schedule; Certificate of Service (Appellee)
45. 15-May-2013 FILED: Letter, 5/13/13, to Perkins Coie LLP, from Court, re: Refund of duplicate filing fee
46. 20-May-2013 ORDERED: denying the Motion to Reconsider Dismissal of Commonwealth Limited Title Insurance Co. or, in the alternative, Motion for Summary Remand for new Reasonableness Hearing. FURTHER ORDERED: striking the opening brief filed on 3/29/13, and directing an amended opening brief to be filed on or before 6/21/13. FURTHER ORDERED: denying the Motion for Leave to File Brief in Excess of 14,000 Words as moot. Hon Diane M Johnsen - Author
47. 21-Jun-2013 FILED: Consolidated Amended Opening Brief Of Appellants Fidelity National Title Insurance, et al.; Certificate of Compliance; Certificate of Service (Appellant/Cross Appellee)
48. 21-Jun-2013 FILED: Renewed/amended Motion for Leave to File Brief In Excess of 14,000 Words; Certificate of Service (Appellant)
49. 16-Jul-2013 ORDERED: Renewed/amended Motion for Leave to File Brief In Excess of 14,000 Words(Appellant) = GRANTED. Hon Diane M Johnsen - Author
50. 29-Aug-2013 ORDERED: Unopposed Motion for Extension of Time to File Reply Brief and Answering Brief on Cross-Appeal (Appellant) = GRANTED. Due date EXTENDED from Monday, 09-16-2013 to Thursday, 10-03-2013 Barbara Vidal Vaught ProTem Judge - Author
51. 3-Oct-2013 FILED: Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal of Appellants Fidelity National Title Insurance, et al.; Certificate of Compliance; Certificate of Service (PARTIALLY STRICKEN per order filed 10/28/13)

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52. 4-Oct-2013 FILED: Motion to Strike the Reply Brief from Fidelity's Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal; Certificate of Service (Appellee)
53. 4-Oct-2013 FILED: Request for Oral Argument; Certificate of Service (Appellant)
54. 4-Oct-2013 FILED: Response to Appellee/cross-appellant's Motion to Strike the Reply Brief From Fidelity's Consolidated Reply Brief On Appeal and Answering Brief On Cross-appeal and Motion for Leave to File Reply Brief In Excess of 7,000 Words; Certificate of Service (Appellant)
55. 7-Oct-2013 FILED: Reply in Support of CMLC's Motion to Strike the Reply Brief from Fidelity's Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal -AND- Response in Opposition to Fidelity's Motion for Leave to File Reply Brief in Excess of 7,000 Words; Certificate of Service (Appellee)
56. 8-Oct-2013 ORDERED: Clerk of Maricopa County Superior Court to transmit any portion of record on appeal unavailable in electronic format, including but not limited to reporter's transcripts and exhibits, to clerk of the Court of Appeals, Division One on or before 10/23/13. Ruth Willingham - Author
57. 22-Oct-2013 FILED: ASC Order, 10/22/13, re: ORDER SUBMITTING PETITION FOR RULING WITHOUT ORAL ARGUMENT, DIRECTING SERVICE, and FIXING TIME FOR RESPONSE and REPLY
58. 23-Oct-2013 Record Receipt Noted - ENTIRE RECORD eFILED - There is no physical record to be transmitted from lower court
59. 23-Oct-2013 FILED: Additional Record on Appeal (this record is currently in CV12-0721):  
Non-Standard Item - CD - Exhibits 48-82 filed 6/18/12; Exhibits: Hearing Date 5/21/12 - List and # 1 2 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 74 75 76 77 78 79 80 81 83 85 87 88 89 90 91 92 93 94 95 96 97 99 100 105 106 107 108 109 110 111 112 113 114 115 116 117 118 120 121 122 124 125 126 127 128 129 130 131 132 133 135 136 137 139 141 142 143 144 145 146 147 149 150 151 152 153 154 155 157 1159 164 165 166 167 168 169 170 171 in a box.
60. 24-Oct-2013 FILED: Appellee's Centerpoint I Loan LLC, Centerpoint II Loan LLC and ML Manger LLC's Joinder to Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims LLC's Reply Brief on Cross Appeal; Certificate of Compliance; Certificate of Service (Appellee)
61. 1-Nov-2013 ORDERED: granting the motion to strike and striking the reply brief portion of the combined reply brief/answering brief on cross-appeal filed on 10/3/13. FURTHER ORDERED: granting appellant to and including 11/22/13, to file a replacement reply brief. Hon Diane M Johnsen - Author
62. 5-Nov-2013 FILED: Request for Oral Argument; Certificate of Service (Appellant)
63. 14-Nov-2013 FILED: ASC Order, 11/14/13, re: that the Clerk shall add Real Party Universal-SCP 1, L.P. to the caption of the Special Action. IT IS FURTHER ORDERED granting the motion and accepting the Universal-SCP 1, L.P.'s Notice of Joinder in Responses to Petition for Special Action Filed By Centerpoint Mechanic Lien Claims, LLC and ML Manager, LLC filed on November 13, 2013.
64. 27-Nov-2013 ORDERED: Request for Oral Argument (Appellant) = GRANTED. Hon Diane M Johnsen - Author
65. 4-Dec-2013 FILED: Motion for Leave to File Brief of Amicus Curiae American Land Title Association; Certificate of Service (Amicus Curiae)
66. 3-Jan-2014 ORDERED: Motion for Leave to File Brief of Amicus Curiae American Land Title Association (Amicus Curiae) = GRANTED. FURTHER ORDERED: any party desiring to repond to the amicus curiae brief shall file a reponse within twenty days of the date of this order. Hon Diane M Johnsen - Author
67. 7-Jan-2014 FILED: ASC Order, 1/7/14, re: The Court declines to accept jurisdiction of the Petition for Special Action. FURTHER ORDERED: Request for Attorneys' Fees (Real Party Centerpoint Mechanic Lien Claims LLC) = DENIED.
68. 28-Feb-2014 CLNDR: MONTHLY COURT CASE CALENDAR, Department A, 4-29-14, 09:30 am, COURTROOM 1.
69. 7-Mar-2014 FILED: Notice of Oral Argument
70. 29-Apr-2014 FILED: Sign-in Sheet/Case is Under Advisement (Dept A)
71. 27-Aug-2015 OPINION (Reversed) Hon Kent E Cattani Judge - Author; Hon Margaret H Downie - Concur; Hon Michael J Brown - Concur
72. 27-Aug-2015 FILED: Opinion Distribution List
73. 11-Sep-2015 FILED: Appellant/Cross-Appellees' Motion for Partial Reconsideration; Certificate of Compliance; Certificate of Service (Appellant)
74. 11-Sep-2015 FILED: Appellee/Cross-Appellant Centerpoint Mechanic Lien Claims LLC's Motion for Reconsideration, or in the Alternative, Clarification of the Court's August 27, 2015 Opinion; Certificate of Compliance; Certificate of Service (Appellee)

**Court of Appeals, Division One**  
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**77 PROCEEDING ENTRIES**

- |     |             |  |
|-----|-------------|--|
| 75. | 11-Sep-2015 | FILED: Appellants'/Cross-Appellees' Statement of Costs; Certificate of Service (Appellant)   |
| 76. | 21-Sep-2015 | FILED: Appellants'/Cross-Appellees' Amended Statement of Costs; Certificate of Service (Appellant's/Cross Appellees Fidelity et al.) |
| 77. | 29-Mar-2016 | FILED: Notice of Change of Firm Address; Certificate of Service (Appellant)  |