

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

**1 CA-CV 14-0372**

**WHITE MTN v. MAR COUNTY et al.**

<b>Appellate Case Information</b> Case Filed: 9-Jun-2014 Case Closed:	<b>Dept/Composition</b> <b>Dept D</b> Hon. Donn Kessler Hon. Michael J Brown Hon. Peter B Swann
---	---

Consolidated with: 1 CA-CV 12-0831 1 CA-CV 13-0697

**Side 1. WHITE MOUNTAIN HEALTH CENTER, INC., an Arizona non-profit corporation, Plaintiff/Appellee**

**(Litigant Group) WHITE MOUNTAIN HEALTH CENTER INC**

- White Mountain Health Center Inc

**Co-Counsel for: Plaintiff/Appellee**

Steven M White, Esq. (AZ Bar No. 20061)  
Ezekiel R Edwards, Esq. (NY Bar No. 4189304)  
Emma A Andersson, Esq. (CA Bar No. 260637)  
Daniel Joseph Pochoda, Esq. (AZ Bar No. 21979)  
Anne M Brady, Esq. (AZ Bar No. 26205)

**Side 2. MARICOPA COUNTY; WILLIAM MONTGOMERY, ESQ., Maricopa County Attorney, Defendant/Appellant**

**(Litigant Group) MARICOPA COUNTY**

- Maricopa County
- William G Montgomery  
AZ Bar No. 21246  
[Current Member]  
Admitted 10/29/01

**Attorneys for: Defendants/Appellants**

Thomas P Liddy, Esq. (AZ Bar No. 19384)  
Joseph I Vigil, Esq. (AZ Bar No. 18677)

**Side 3. STATE OF ARIZONA ex rel. MARK BRNOVICH, in his official capacity as Attorney General, Intervenor/Appellee**

**(Litigant Group) STATE /BRNOVICH**

- State of Arizona
- Mark Brnovich  
AZ Bar No. 14134  
[Current Member]  
Admitted 5/23/92

**Attorneys for: Intervenor/Appellee State/Brnovich**

Charles A Grube, Esq. (AZ Bar No. 11511)

**CASE STATUS**

Dec 20, 2016....Decision Rendered

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2012-053585	Final Judgment on Attorney's Fees		Michael D Gordon, Authoring Judge of Order		

**2 OPEN DUE DATES**

**Motion for Reconsideration due** **Due By:** Wednesday, January 4, 2017

Re: OPINION (Affirmed in Part, Reversed in Part) Hon Donn Kessler - Author; Hon Peter B Swann - Concur; Hon Michael J Brown - Concur

**Petition for Review to ASC due** **Due By:** Thursday, January 19, 2017

Re: OPINION (Affirmed in Part, Reversed in Part) Hon Donn Kessler - Author; Hon Peter B Swann - Concur; Hon Michael J Brown - Concur

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

**1 CA-CV 14-0372**

**WHITE MTN v. MAR COUNTY et al.**

**CASE DECISION**

20-Dec-2016 **OPINION**

**Donn Kessler**.....Author  
**Peter Swann**.....Concur  
**Michael Brown**.....Concur

Filed: **20-Dec-2016** Mandate:

Decision Disposition

***Affirmed in Part***  
***Reversed in Part***

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

<b>1 CA-CV 12-0831</b>	WHITE MTN v. MAR COUNTY
<b>1 CA-CV 13-0697</b>	MARICOPA v. WHITE MTN

**43 PROCEEDING ENTRIES**

1. 9-Jun-2014 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/02/14  
Bond filed in Superior Court: None  
Docketing Statement filed in Superior Court: None
2. 9-Jun-2014 FILED: e-Record on Appeal:  
Instruments/Minute Entries
3. 18-Jun-2014 ORDERED: staying this appeal to and including 7/14/14 and revesting jurisdiction in the Superior Court of Maricopa County to permit that court to consider an application by defendants/appellants for a signed judgment with a certification of finality pursuant to Rule 54(c). FURTHER ORDERED: if the superior court grants defendants/appellant's application, defendants/appellants shall file a copy of the signed judgment within ten days after its entry, in this court's case no. 1 CA-CV 14-0372 and a copy of a timely amended notice of appeal filed in the superior court. FURTHER ORDERED: if the appeal has not been reinstated by the filing of a signed judgment with reference to Rule 54(c) by 7/14/14, defendants/appellants shall file a request to continue the stay of appeal that describes the status of the application. FURTHER ORDERED: if a signed judgment incorporating language from Rule 54(c) and a copy of an amended notice of appeal has been filed prior to the reinstatement date, the court will consolidate this appeal with 1 CA-CV 12-0831 and 1 CA-CV 13-0697 and set a briefing schedule for the issues raised by this appeal. Hon Donn Kessler - Author
4. 24-Jun-2014 FILED: Notice to Counsel re: No Appellant's Fee/Appellee's Fee/Brief Due
5. 24-Jun-2014 FILED: Civil Appeals Docketing Statement; Certificate of Service of Civil Appeals Docketing Statement; Exhibit A (Appellant)
6. 14-Jul-2014 FILED: Notice of Compliance with Order of 6/18/2014; Certificate of Service of Notice of Compliance with Order of 6/18/2014; Exhibits (Appellant)
7. 14-Jul-2014 FILED: Certificate of Service of Notice of Compliance with Order of 6/18/2014 (Appellant)
8. 15-Jul-2014 FILED: Supplemental e-Record - PDJ: Revised Index of Record  
  
(Includes Judgment and Amended Notice of Appeal - ama)
9. 18-Jul-2014 ORDERED: consolidating the appeal in 1 CA-CV 14-0372 with the previously consolidated appeals in 1 CA-CV 12-0831 and 1 CA-CV 13-0697. FURTHER ORDERED: opening brief in 1 CA-CV 14-0372 shall be filed on or before 9/2/14. The answering and any reply brief in 1 CA-CV 14-0372 shall be filed pursuant to Arizona Rule of Civil Appellate Procedure 15. All briefs shall also be served on counsel for amici curiae. Hon Donn Kessler - Author
10. 18-Jul-2014 FILED: Appellee's Unopposed Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee)
11. 23-Jul-2014 ORDERED: Appellee's Unopposed Motion for Extension of Time to File Answering Brief = GRANTED. Due date EXTENDED from Monday, 07-28-2014 to Wednesday, 08-27-2014. Nothing in this order affects the briefing schedule for 1 CA-CV 14-0372 set in this Court's Order filed 7/18/14. Hon Donn Kessler - Author
12. 31-Jul-2014 FILED: Notice of Supplemental Authority; Certificate of Service (Appellee)
13. 1-Aug-2014 FILED: Notice of Errata; Certificate of Service (Appellee)
14. 27-Aug-2014 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee White Mountain Health)

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

**1 CA-CV 14-0372**

**WHITE MTN v. MAR COUNTY et al.**

**43 PROCEEDING ENTRIES**

15. 2-Sep-2014 FILED: Appellants Maricopa County and William Montgomery's Opening Brief relating to Attorney's Fees; Certificate of Compliance; Certificate of Service (Appellant)
16. 11-Sep-2014 ORDERED: Appellants' Motion For Extension Of Time To File Reply Brief Re 1 CA-CV 13-0697 = GRANTED. Due date EXTENDED from Monday, 09-22-2014 to Wednesday, 10-22-2014 Hon Donn Kessler - Author
17. 30-Sep-2014 ORDERED: White Mountain shall have until and through 11/12/14 to file its answering brief in 1 CA-CV 14-0372 in response to Appellants Maricopa County and William Montgomery's opening brief filed 9/2/14. Hon Donn Kessler - Author
18. 15-Oct-2014 FILED: Appellants Maricopa County and William Montgomery's Reply Brief Re 1 CA-CV 13-0697; Certificate of Compliance for Appellants' Reply Brief re 1 CA-CV 13-0697; Certificate of Service of Appellants' Reply Brief re 1 CA-CV 13-0697 (Appellant)
19. 24-Oct-2014 FILED: Appellant's Request for Oral Argument; Certificate of Service for Request for Oral Argument (Appellant)
20. 31-Oct-2014 ORDERED: Appellant's Request for Oral Argument = GRANTED. Hon Donn Kessler - Author
21. 12-Nov-2014 FILED: Appellee's Answering Brief relating to Attorneys' Fees; Certificate of Compliance; Certificate of Service (Appellee White Mntn Health for CV 14-0372)
22. 12-Dec-2014 ORDERED: holding these consolidated cases in abeyance until the Arizona Supreme Court issues its decision in Reed-Kaliher v. Hoggatt. Nothing in this order precludes the Appellants from filing their reply brief on attorneys' fees. Hon Donn Kessler - Author
23. 8-Apr-2015 ORDERED: continuing to hold these consolidated cases in abeyance until ASC issues its mandate in Reed-Kaliher v. Hoggatt. Hon Donn Kessler - Author
24. 1-May-2015 FILED: Appellants Maricopa County and William Montgomery's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only; Certificate of Service of Appellant's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only (Appellant)
25. 27-May-2015 ORDERED: Appellants Maricopa County and William Montgomery's Motion to Lift the Stay Re 1 CA-CV 13-0697 Only (Appellant) = DENIED. Hon Donn Kessler - Author
26. 14-Sep-2015 ORDERED: (Court has determined that ASC has issued mandate in Reed-Kaliher v. Hoggatt and no petition for a writ of certiorari was filed) lifting orders of abeyance in this matter. FURTHER ORDERED: On/before 10/15/15, parties and amici may file briefs on application of Reed-Kaliher to issues in these consolidated appeals. Each supplemental brief shall not exceed ten pages, excluding tables and certificates and any appendices. FURTHER ORDERED: This case will be set for oral argument after filing of above supplemental briefs. Hon Donn Kessler - Author
27. 15-Sep-2015 FILED: Supplemental Amicus Curiae Brief of The Yavapai County Attorney in Support of Appellants County of Maricopa, State of Arizona; Certificate of Compliance; Certificate of Service
28. 6-Oct-2015 FILED: State's Supplemental Brief; Certificate of Compliance; Certificate of Service (Intervenor/Appellant)
29. 15-Oct-2015 FILED: Memorandum: Judge Swann for Judge Thumma (Chief Judge Brown)
30. 15-Oct-2015 FILED: Courtesy Copy of Supplemental Brief of Appellants Maricopa County and William Montgomery (includes Table of Contents and Table of Authorities)
31. 15-Oct-2015 FILED: Appellee's Supplemental Brief; Certificate of Compliance; Certificate of Service (White Mountain Appellee)
32. 15-Oct-2015 FILED: Appellants Maricopa County and William Montgomery's Supplemental Brief; Certificate of Compliance for Appellants Maricopa County and William Montgomery's Supplemental Brief; Certificate of Service for Appellants Maricopa County and William Montgomery's Supplemental Brief
33. 28-Oct-2015 FILED: Appellee's Second Supplemental Citation to Legal Authority; Certificate of Service; Order Re Motion to Dissolve Permanent Injunction dated 10/19/15
34. 11-Dec-2015 FILED: Supplemental Citation of Legal Authorities of Appellants Maricopa County and William Montgomery; Certificate of Service of Supplemental Citation of Legal Authorities (Appellant)
35. 13-Jan-2016 ORDERED: Court will hear oral argument on these consolidated appeals on 3/3/16 @ 10 am. Hon Donn Kessler - Author
36. 28-Jan-2016 FILED: Return Receipt of Notice of Oral Argument signed by Steve White on 1/13/16 (Appellee)

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

**1 CA-CV 14-0372**

**WHITE MTN v. MAR COUNTY et al.**

**43 PROCEEDING ENTRIES**

- |     |             |   |
|-----|-------------|---|
| 37. | 1-Feb-2016  | FILED: Appellee's Third Supplemental Citation to Legal Authority; Certificate of Service  |
| 38. | 23-Feb-2016 | FILED: Receipt of Notice of Oral Argument signed by Charles A Grube on 1/13/16; Certificate of Service (Intervenor/Appellant/State of AZ) |
| 39. | 24-Feb-2016 | FILED: Receipt of Notice of Oral Argument signed by Thomas P. Liddy on 1/13/16; Certificate of Service (Appellant)                        |
| 40. | 26-Feb-2016 | FILED: Return Receipt Re Oral Argument, signed by Thomas P. Liddy, on 1/13/16 (Appellant Maricopa County)                                 |
| 41. | 3-Mar-2016  | FILED: Sign-in Sheet/Case is Under Advisement (Dept D)  |
| 42. | 20-Dec-2016 | OPINION (Affirmed in Part, Reversed in Part) Hon Donn Kessler - Author; Hon Peter B Swann - Concur; Hon Michael J Brown - Concur          |
| 43. | 20-Dec-2016 | FILED: Opinion Distribution List  |