

Court of Appeals, Division One

Civil Appeal

1 CA-CV 14-0603

DMARC 2006-CD2 v. BUSH REALTY et al.

Appellate Case Information

Case Filed: 22-Sep-2014
Case Closed:

Dept/Composition

Department A
Hon. Kenton D Jones
Hon. Randall M Howe
Hon. Donn Kessler

Side 1. DMARC 2006-CD2 INDIAN SCHOOL, LLC, an Arizona limited liability company, Plaintiff/Appellee
(Litigant Group) DMARC 2006-CD2 INDIAN SCHOOL LLC

- DMARC 2006-CD2 Indian School LLC

Attorneys for: Plaintiff/Appellee

Robert R Kinas, Esq. (AZ Bar No. 11560)
Mark E Konrad, Esq. (AZ Bar No. 16601)
Courtney Leigh Henson, Esq. (AZ Bar No. 30825)

Side 2. BUSH REALTY AT STEELE PARK, LLC, a Delaware limited liability company; SAMUEL WEISS, an individual,, Defendant/Appellant
(Litigant Group) BUSH REALTY / SAMUEL WEISS

- Bush Realty at Steel Park LLC
Samuel Weiss

Attorneys for: Defendants/Appellants

John L Lohr, Jr, Esq. (AZ Bar No. 19876)
Lori N Brown, Esq. (AZ Bar No. 27952)

(Litigant Group) EMPIRIAN / BEYMAN - dismissed per order filed 11/18/15

- Empirian at Steele Park LLC
Empirian Real Estate Investors LLC
Ezra Beyman

CASE STATUS

Dec 13, 2016....Decision Rendered

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2011-008974, Breach of Contract; Breach of Guaranty; Deficiency Judgment, Katherine M Cooper, Authoring Judge of Order.

CASE DECISION

13-Dec-2016 MEMORANDUM DECISION

Donn Kessler.....Author
Kenton Jones.....Concur
Randall Howe.....Concur

Filed: 13-Dec-2016 Mandate:

Decision Disposition

Affirmed

46 PROCEEDING ENTRIES

- 1. 22-Sep-2014 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/14/14 (Weiss); Notice of Appeal from Maricopa County Superior Court filed 8/29/14 (Beyman)
2. 22-Sep-2014 FILED: e-Record on Appeal: Instruments/Minute Entries
3. 3-Oct-2014 FILED: Notice to Counsel re: Appellant's Fees/Brief Due
4. 15-Oct-2014 RECEIPT No.: 2014-01270 ; \$280.00, Check Number: #57707, Applied to: BUSH REALTY / SAMUEL WEISS - Overpayment Class A (\$280.00) Paid for: - By Hymson Goldstein & Pantiliat PLLC
5. 15-Oct-2014 RECEIPT No.: 2014-01272 ; \$280.00, Check Number: #57707, Applied to: BUSH REALTY / SAMUEL WEISS - Class A Filing Fee (\$280.00) Paid for: - By Hymson Goldstein & Pantiliat PLLC (Memo: X-REF 2014-01270)

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6. 15-Oct-2014 VOID RECEIPT No.: 2014-01270 - \$-280.00, Check Number: #57707, - Applied to: BUSH REALTY / SAMUEL WEISS - Overpayment Class A (\$-280.00) Paid for: - By: Hymson Goldstein & Pantiliat PLLC VOID Reason: x-ref 2014-01272 incorrect receivable. alc
7. 23-Oct-2014 FILED: Appellants' Motion for Extension of time to File Opening Brief; Certificate of Service (Appellants Weiss/Bush and Beyman/Empirian)
8. 24-Oct-2014 FILED: Notice of Payment of Filing Fee; Certificate of Service for Notice of Payment of Filing Fee (Appellants Beyman/Empirian)
9. 28-Oct-2014 RECEIPT No.: 2014-01339 ; \$280.00, Authorization: #21252664, Applied to: BUSH REALTY / SAMUEL WEISS - Overpayment Class A (\$280.00) Paid for: Hymson Goldstein & Pantiliat PLLC - By Integrated Resource Systems IN (Memo: Duplicate Pmt - See Rcpt 2014-01272 - Refund needed)
10. 28-Oct-2014 RECEIPT No.: 2014-01341 ; \$280.00, Authorization: #21252664, Applied to: EMPIRIAN / BEYMAN - Class A Filing Fee (\$280.00) Paid for: Jennings Strouss & Salmon PLC - By Integrated Resource Systems IN
11. 28-Oct-2014 ORDERED: Appellants' Motion for Extension of time to File Opening Brief = GRANTED. Due date EXTENDED from Wednesday, 11-12-2014 to Friday, 12-12-2014 Melina Brill ProTem Judge - Author
12. 11-Nov-2014 FILED: Defendant Appellant Ezra Beyman's Notice of Involuntary Bankruptcy Filing and Notice of Operation of Automatic Stay; Certificate of Service for Defendant Appellant Ezra Beyman's Notice of Involuntary Bankruptcy Filing and Notice of Operation of Automatic Stay (Appellant)
13. 13-Nov-2014 ORDERED: staying this appeal until further order. FURTHER ORDERED: directing counsel for appellant Ezra Beyman to advise this counsel promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 5/12/15. Melina Brill ProTem Judge - Author
14. 20-Jan-2015 FILED: Letter to Hymson Goldstein & Pantiliat on 1/16/15 re: Refund of duplicate filing fee
15. 27-Feb-2015 FILED: Appellants' Samuel Weiss and Bush Realty at Steele Park LLC's Motion to Clarify or Lift Stay as to Defendants/Appellants Samuel Weis and Bush Realty at Steele Park, LLC; Certificate of Service (Appellant)
16. 16-Mar-2015 FILED: Appellee's Notice of Paying Filing Fee; Certificate of Service (Appellee)
17. 16-Mar-2015 FILED: Appellee's Response to Appellants Samuel Weiss and Bush Realty at Steele Park, LLC's Motion to Clarify or Lift Stay as to Defendant's/Appellants Samuel Weis and Bush Realty at Steele Park, LLC; Certificate of Service (Appellee)
18. 19-Mar-2015 RECEIPT No.: 2015-00357 ; \$140.00, Authorization: #77014209637, Applied to: DMARC 2006-CD2 INDIAN SCHOOL LLC - Class B Filing Fee (\$140.00) Paid for: Snell & Wilmer LLP - By Integrated Resource Systems IN
19. 23-Mar-2015 FILED: Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC's Reply In Support Of Motion To Clarify or Lift Stay As To Defendants/Appellants Samuel Weiss and Bush Realty At Steele Park, LLC; Certificate of Service (Appellant)
20. 2-Apr-2015 ORDERED: denying request to lift stay as to Weiss appellants' appeal. FURTHER ORDERED: denying Weiss appellants' motion to stay execution of judgment w/o prejudice to consideration of a new motion to stay if superior court denies, or has denied, a stay request. Melina Brill ProTem Judge - Author
21. 12-May-2015 FILED: Defendant Appellant Ezra Beyman's Status Report Re: Involuntary Bankruptcy Filing; Certificate of Service for Defendant Appellant Ezra Beyman's Status Report Re: Involuntary Bankruptcy Filing (Appellant)
22. 19-May-2015 ORDERED: (Status Report Re: Involuntary Bankruptcy Filing) continuing stay of appeal. FURTHER ORDERED: Directing appellant Ezra Beyman to advise court w/in 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and to file written notice w/ court of status of bankruptcy proceedings on/before 8/17/15. Melina Brill ProTem Judge - Author
23. 17-Aug-2015 FILED: Defendant Appellant Ezra Beyman's Status Report Re: Involuntary Bankruptcy Filing; Certificate of Service for Defendant Appellant Ezra Beyman's Status report Re: Involuntary Bankruptcy Filing (Appellant)
24. 20-Aug-2015 ORDERED: continuing stay of this appeal. FURTHER ORDERED: Appellant Ezra Beyman to advise this court w/in 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and to file written notice w/ court of status of bankruptcy proceedings on/before 12/15/15. Melina Brill ProTem Judge - Author
25. 7-Oct-2015 FILED: Defendant Appellant Ezra Beyman's Status Report re Involuntary Bankruptcy; Certificate of Service (Appellant)

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26. 4-Nov-2015 ORDERED: Defendant Appellant Ezra Beyman's Status Report re Involuntary Bankruptcy (Appellant) = GRANTED/terminating stay of appeal entered by this court on 11/13/14. FURTHER ORDERED: Opening briefs shall be filed on/before 12/7/15. Melina Brill ProTem Judge - Author
27. 16-Nov-2015 FILED: Appellee's and Beyman Appellants' Stipulated Motion to Dismiss With Prejudice Appeal Filed by Beyman Appellants Only; Certificate of Service (Appellee)
28. 18-Nov-2015 ORDERED: granting motion an dismissing appellants Empirian at Steele Park, LLC, Empirian Real Estate Investors, LLC, and Ezra Beyman, those parties to bear their own costs and attorneys' fees. FURTHER ORDERED: Amending caption in this appeal by removing Empirian at Steele Park, LLC, Empirian Real Estate Investors, LLC, and Ezra Beyman as appellants. Melina Brill ProTem Judge - Author
29. 7-Dec-2015 FILED: Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC's Motion to Supplement the Record; Certificate of Service (Appellant)
30. 7-Dec-2015 FILED: Defendants'/Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC Opening Brief; Certificate of Compliance; Certificate of Service
31. 23-Dec-2015 FILED: Appellee's Response in Opposition to Appellants' Motion to Supplement the Record; Certificate of Service (Appellee)
32. 13-Jan-2016 ORDERED: Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC's Motion to Supplement the Record (Appellant) = DENIED. Melina Brill ProTem Judge - Author
33. 20-Jan-2016 FILED: Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC's Request for Oral Argument; Certificate of Service (Appellant)
34. 25-Jan-2016 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service
35. 25-Jan-2016 FILED: Appellee's Appendix to Answering Brief
36. 22-Feb-2016 FILED: Defendants'/Appellants' Samuel Weiss and Bush Realty At Steele Park, LLC Reply Brief; Certificate of Compliance; Certificate of Service
37. 2-Mar-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
38. 9-Mar-2016 ORDERED: Appellants' Samuel Weiss and Bush Realty at Steele Park, LLC's Request for Oral Argument (Appellant) = GRANTED. Hon Michael J Brown - Author
39. 11-Mar-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
40. 26-Sep-2016 CLNDR: MONTHLY COURT CASE CALENDAR, Department A, 11-15-16, 10:45 am, COURTROOM 2.
41. 5-Oct-2016 FILED: Notice of Oral Argument
42. 5-Oct-2016 FILED: Receipt for Notice of Oral Argument, signed by John Lohr, Jr on 10/05/2016 (Appellants)
43. 14-Nov-2016 FILED: Receipt for Notice of Oral Argument, signed by Mark Konrad on 10/05/2016 (Appellee)
44. 15-Nov-2016 FILED: Sign-in Sheet/Case is Under Advisement as of 11/15/2016 (Dept A)
45. 13-Dec-2016 MEMORANDUM DECISION (Affirmed) Hon Donn Kessler - Author; Hon Kenton D Jones - Concur; Hon Randall M Howe - Concu
46. 13-Dec-2016 FILED: Memorandum Decision Distribution List