

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

**1 CA-CV 14-0657**

**KIMBALL et al. v. PERKINS**

<b>Appellate Case Information</b> Case Filed: 8-Oct-2014 Case Closed:	<b>Dept/Composition</b> <b>Department A</b> Hon. Margaret H Downie Hon. Kent E Cattani Hon. Donn Kessler
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**Side 1. In the Matter of the Estate of: DAVID GOODWIN PERKINS, . Deceased. PATRICIA KIMBALL and BENJAMIN KIMBALL, husband and wife; 7 BAR, LLC, an Arizona limited liability company; BANJO, LLC, an Arizona limited liability company; and SEVILLE EAST, an Arizona general partnership, Appellant/Cross-Appellee**

**(Litigant Group) PATRICIA & BENJAMIN KIMBALL**

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| <ul style="list-style-type: none"> <li>● Patricia Kimball</li> <li>● Benjamin Kimball</li> </ul> | <b>Attorneys for: Appellants/Cross-Appellees Kimball</b><br>David A Selden, Esq. (AZ Bar No. 7499)<br>Justin V Niedzialek, Esq. (AZ Bar No. 25654) |
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**(Litigant Group) 7 BAR LLC et al**

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| <ul style="list-style-type: none"> <li>● Banjo LLC</li> <li>● Seville East</li> <li>● 7 BAR LLC</li> </ul> | <b>Attorneys: Appellants/Cross-Appellees 7 Bar et al</b><br>Michael R Scheurich, Esq. (AZ Bar No. 5943)<br>Michael J Plati, Esq. (AZ Bar No. 16705)<br>David S Coale, Esq. (TX Bar No. P195676) |
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**Side 2. MEMI PERKINS; SILKIE PERKINS; AMANDA CALVERT; DAVID ALEX PERKINS, DULCY MOORE PERKINS; SHIRLEY A. SEITZ; SMITH PERKINS, and DINAH PERKINS, Appellee/Cross-Appellant**

**(Litigant Group) MEMI PERKINS; SILKIE PERKINS**

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| <ul style="list-style-type: none"> <li>● Memi Perkins</li> <li>● Silkie Perkins</li> </ul> | <b>Attorneys for: Appellees/Cross-Appellants</b><br>Mark C Dangerfield, Esq. (AZ Bar No. 10832) |
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**(Litigant Group) AMANDA CALVERT**

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| <ul style="list-style-type: none"> <li>● Amanda Calvert</li> </ul> | PRO SE |
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**(Litigant Group) DAVID ALEX PERKINS**

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| <ul style="list-style-type: none"> <li>● David Alex Perkins</li> </ul> | PRO SE |
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**(Litigant Group) DULCY MOORE PERKINS**

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| <ul style="list-style-type: none"> <li>● Dulcy Moore Perkins</li> </ul> | PRO SE |
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**(Litigant Group) SHIRLEY A SEITZ**

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| <ul style="list-style-type: none"> <li>● Shirley A Seitz</li> </ul> | PRO SE |
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**(Litigant Group) DINAH PERKINS**

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| <ul style="list-style-type: none"> <li>● Dinah Perkins</li> </ul> | PRO SE |
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**CASE STATUS**

Sep 6, 2016.....Pending in ASC

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
YAV P1300CV20090963					
YAV P1300PB17174			David L Mackey, Authoring Judge of Order		

DESCENDENT CASE(S)	
ASC CV-16-0183-PR	

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**CASE DECISION**

05-Jul-2016 MEMORANDUM DECISION

Kent Cattani.....Author  
Margaret Downie.....Concur  
Donn Kessler.....Concur

Filed: **05-Jul-2016** Mandate:

Decision Disposition
<b><i>Affirmed as Modified</i></b>

**74 PROCEEDING ENTRIES**

1. 6-Oct-2014 FILED: Additional Record on Appeal:  
Exhibit # 202 CD
2. 8-Oct-2014 FILED: Index of Record, Notice of Appeal from Yavapai County Superior Court filed 08/22/14 (Appellants); Amended Notice of Appeal from Yavapai County Superior Court filed 8/27/14 (Appellants); Notice of Cross-Appeal from Yavapai County Superior Court filed 9/11/14 (Mimi Perkins); Notice of Cross-Appeal from Yavapai County Superior Court filed 9/11/14 (Mimi Perkins /Silkie Perkins)  
Bond filed in Superior Court: 8/22/14 (Appellants); 9/11/14 (Cross-Appellants)  
Docketing Statement filed in Superior Court: 9/2/14 (Appellants); 9/23/14 (Mimi Perkins/Silkie Perkins)
3. 8-Oct-2014 FILED: e-Record on Appeal (P1300CV20090963):  
Instruments/Minute Entries
4. 3-Nov-2014 FILED: e-Record on Appeal (P1300PB17174):  
Instruments/Minute Entries  
e-Exhibits: 4 5 6 7 9 12 15 18 19 20 21 22 23 24 26 28 31 38 39 40 41 45 47 50 53 55 56 59 60 61 62 64 65 66 67 68 76 77 78  
79 80 81 82 83 84 85 87 88 90 91 92 93 95 96 97 98 99 101 102 103 105 106 108 109 110 111 113 114 115 116 117 120 122  
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382 389 390 393 394 395 396 400 403 404 412 414 417 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 443  
449 452 454 455 456 457 458 459 460 467 475 476 477 478 481 482
5. 12-Nov-2014 FILED: Notice to Counsel re: Appellants/Cross-Appellees' Fee/Brief Due
6. 19-Nov-2014 RECEIPT No.: 2014-01431 ; \$280.00, Check Number: #2746, Applied to: PATRICIA KIMBALL et al. - Class A Filing Fee (\$280.00) Paid for: - By Dickinson Wright PLLC
7. 24-Nov-2014 FILED: Cross Appellant's Notice re: All Appellee's Cross Appellant Fees Due/Appellant's Brief Due
8. 24-Nov-2014 RECEIPT No.: 2014-01450 ; \$280.00, Check Number: #2746, Applied to: 7 BAR LLC et al - Class A Filing Fee (\$280.00) Paid for: - By Dickinson Wright PLLC (Memo: x-ref 2014-01431)
9. 24-Nov-2014 FILED: Amended Cross Appellants Notice re: Cross Appellant's Fee Due/Appellant's Brief Due
10. 24-Nov-2014 VOID RECEIPT No.: 2014-01431 - \$-280.00, Check Number: #2746, - Applied to: PATRICIA KIMBALL et al. - Class A Filing Fee (\$-280.00) Paid for: - By: Dickinson Wright PLLC VOID Reason: x-ref 2014-01450 incorrect litigant group. alc
11. 1-Dec-2014 FILED: Appellants/Cross-Appellees' Notice of Appearance; Certificate of Service (Appellant Kimball)
12. 9-Dec-2014 RECEIPT No.: 2014-01507 ; \$280.00, Authorization: 0822301776, Applied to: AMANDA CALVERT - Class A Filing Fee (\$280.00) Paid for: - By AMANDA CALVERT
13. 9-Dec-2014 RECEIPT No.: 2014-01508 ; \$280.00, Authorization: 0822301778, Applied to: DAVID ALEX PERKINS - Class A Filing Fee (\$280.00) Paid for: - By DAVID ALEX PERKINS
14. 9-Dec-2014 RECEIPT No.: 2014-01509 ; \$280.00, Authorization: 0822301780, Applied to: SHIRLEY A SEITZ - Class A Filing Fee (\$280.00) Paid for: - By SHIRLEY A SEITZ
15. 9-Dec-2014 RECEIPT No.: 2014-01510 ; \$280.00, Authorization: 0822301779, Applied to: DULEY MOORE PERKINS - Class A Filing Fee (\$280.00) Paid for: - By DULCY MOORE PERKINS
16. 9-Dec-2014 RECEIPT No.: 2014-01511 ; \$280.00, Authorization: 0822301781, Applied to: DINAH PERKINS - Class A Filing Fee (\$280.00) Paid for: - By DINAH PERKINS

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17. 9-Dec-2014 FILED: Appellants/Cross-Appellees' Motion For Extension of Time to File Opening Brief (1st Request); Certificate of Service for Appellants/Cross-Appellees' Motion
18. 9-Dec-2014 FILED: Cross-Appellants' Notice of Payment of Filing Fee; Certificate of Service (Appellees/Cross-Appellants)
19. 10-Dec-2014 ORDERED: Extending the time for filing the Opening Brief to/including 2/20/15. Melina Brill ProTem Judge - Author
20. 12-Dec-2014 RECEIPT No.: 2014-01532 ; \$280.00, Authorization: #45012490488, Applied to: MEMI PERKINS; SILKIE PERKINS - Class A Filing Fee (\$280.00) Paid for: Gallagher & Kennedy P A - By Integrated Resource Systems IN
21. 26-Jan-2015 FILED: Appellants' Motion to Associate Counsel Pro Hac Vice
22. 10-Feb-2015 FILED: Appellants' Amended Motion to Associate Counsel Pro Hac Vice; Certificate of Service (Appellant)
23. 17-Feb-2015 FILED: Notice of Change of Address (Appellee/X-Appellant A. Calvert)
24. 17-Feb-2015 FILED: Certificate of Service re: Notice of Change of Address (Appellee/X-Appellant A. Calvert Pro Per)
25. 20-Feb-2015 FILED: Appellants/Cross-Appellees Kimballs' Opening Brief; Certificate of Compliance for Appellants/Cross-Appellees Kimballs' Opening Brief; Certificate of Service for Appellants/Cross-Appellees Kimballs' Opening Brief
26. 20-Feb-2015 FILED: Opening Brief for Appellants 7 Bar, LLC, Banjo, LLC, and Seville East; Appendix (Opening Brief for Appellants 7 Bar, LLC, Banjo, LLC, and Seville East) (Appellants/Cross-Appellees)
27. 23-Feb-2015 FILED: Request for Oral Argument (7 Bar, LLC and Banjo, LLC); Certificate of Service (Appellant)
28. 24-Feb-2015 FILED: Certificate of Compliance (Opening Brief of Banjo, LLC; 7 Bar LLC & Seville East); Certificate of Service (Opening Brief of Banjo, LLC; 7 Bar LLC & Seville East) (Appellant)
29. 24-Feb-2015 FILED: Certificate of Service (Opening Brief of Banjo, LLC; 7 Bar LLC & Seville East) (Appellant)
30. 13-Mar-2015 ORDERED: granting motion/permitting attorney David Coale of Lynn Tillotson Pinker & cox, to appear pro hac vice as co-counsel for appellants 7 Bar, LLC, and Banjo w/ Michael R Scheurich of Dickinson Wright as local counsel. Melina Brill ProTem Judge - Author
31. 24-Mar-2015 FILED: Appellees/Cross-Appellants' Motion for Procedural Order to Extend Time to File Briefs (First Request); Certificate of Service; Declaration of Mark C. Dangerfield in Support of Appellees/Cross-Appellants' Motion for Procedural Order to Extend Time to File Briefs (First Request) (Cross-Appellant)
32. 25-Mar-2015 ORDERED: Appellees/Cross-Appellants' Motion for Procedural Order to Extend Time to File Briefs (First Request) (Answering/Cross-Appeal Opening Briefs)= GRANTED. Due date EXTENDED from Monday, 04-06-2015 to Monday, 05-11-2015. Barbara Vidal Vaught ProTem Judge - Author
33. 29-Apr-2015 FILED: Appellees/Cross-Appellants' Motion for Procedural Order to Submit a Single, Consolidated Brief; Certificate of Service; Declaration of Mark C. Dangerfield in Support of Appellees-Cross-Appellants' Motion for Procedural Order to Submit a Single, Consolidated Brief (Appellee)
34. 4-May-2015 ORDERED: Appellees/Cross-Appellants' Motion for Procedural Order to Submit a Single, Consolidated Brief (Appellee-Cross-Appellant) = GRANTED. Melina Brill ProTem Judge - Author
35. 6-May-2015 FILED: Appellees/Cross-Appellants' Unopposed Motion for Procedural Order to Extend Time to File Consolidated Brief (Second Request); Certificate of Service (Appellee)
36. 8-May-2015 ORDERED: Appellees/Cross-Appellants' Unopposed Motion for Procedural Order to Extend Time to File Consolidated Brief (Second Request) (Appellee) = GRANTED. Due date EXTENDED from Monday, 05-11-2015 to Friday, 05-22-2015. Melina Brill ProTem Judge - Author
37. 22-May-2015 FILED: Consolidated Answering and Opening Brief of Appellees/Cross-Appellants Memi Perkins and Silkie Perkins; Certificate of Compliance; Certificate of Service
38. 10-Jun-2015 FILED: Appellants/Cross-Appellees' Motion to Extend Time to File Consolidated Brief; Certificate of Service; Exhibit A (Appellant)
39. 11-Jun-2015 ORDERED: Appellants/Cross-Appellees' Motion to Extend Time to File Consolidated Brief (Reply/Cross-Answering) (Appellant) = GRANTED. Due date EXTENDED from Monday, 07-06-2015 to Wednesday, 08-05-2015. Melina Brill ProTem Judge - Author

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40. 19-Jun-2015 FILED: Appellee/Cross-Appellant Amanda R Calvert's Joinder in Answering and Opening Brief of Memi Perkins and Silkie Perkins (Pro Per)
41. 19-Jun-2015 FILED: Appellee/Cross-Appellant David Alex Perkins' Joinder Answering and Opening Brief of Memi Perkins and Silkie Perkins (Pro Per)
42. 19-Jun-2015 FILED: Appellee/Cross-Appellant Dulcy Moore Perkins' Joinder Answering and Opening Brief of Memi Perkins and Silkie Perkins (Pro Per)
43. 19-Jun-2015 FILED: Appellee/Cross-Appellant Shirley A Seitz's Joinder Answering and Opening Brief of Memi Perkins and Silkie Perkins (Pro Per)
44. 19-Jun-2015 FILED: Appellee/Cross-Appellant Dinah Perkins' Joinder Answering and Opening Brief of Memi Perkins and Silkie Perkins (Pro Per)
45. 29-Jun-2015 FILED: Returned US Mail, Order re: Extension of Time dated 6/11/15, addressed to Amanda Calvert, Return to Sender - Undeliverable
46. 5-Aug-2015 FILED: Consolidated Reply and Answering Brief of Appellants/Cross-Appellees Kimballs; Certificate of Compliance for Appellants/Cross-Appellees Kimballs' Consolidated Reply and Answering Brief; Certificate of Service for Appellants/Cross-Appellees Kimballs' Consolidated Reply and Answering Brief
47. 5-Aug-2015 FILED: Consolidated Reply Brief and Answering Brief for Appellants/Cross-Appellees 7 Bar, LLC, Banjo LLC, and Seville East; Certificate of Compliance; Certificate of Service; Exhibit A (to Consolidated Reply Brief and Answering Brief for Appellants/Cross-Appellees 7 Bar, LLC, Banjo LLC, and Seville East)
48. 20-Aug-2015 FILED: Cross-Appellants' Motion for Procedural Order to Extend Time to File Reply Briefs (First Request); Certificate of Service (Cross-Appellant)
49. 20-Aug-2015 ORDERED: Cross-Appellants' Motion for Procedural Order to Extend Time to File Reply Briefs (First Request) (Cross-Appellant) = GRANTED. Due date EXTENDED from Monday, 08-31-2015 to Friday, 09-11-2015. Melina Brill ProTem Judge - Author
50. 11-Sep-2015 FILED: Appellees/Cross-Appellants' Request for Oral Argument; Certificate of Service (Appellee)
51. 11-Sep-2015 FILED: Consolidated Reply in Support of Cross-Appeal of Memi and Silkie Perkins; Certificate of Compliance; Certificate of Service (Cross-Appellant)
52. 18-Sep-2015 FILED: Appellants/Cross-Appellees Kimballs' Notice of Lodging Trial Transcripts; Certificate Of Service For Appellants/Cross-appellees Kimballs' Notice Of Lodging Trial Transcripts; Reporters Transcript - 7/16/13 & 7/17/13 & 7/18/13 & 7/19/13 & 7/23/13 & 7/24/13 & 7/25/13 & 7/30/13 & 7/31/13 - Trial (Lisa Cheney) (Appellant)
53. 2-Oct-2015 FILED: Appellants Patricia Kimball and Benjamin Kimball's Notice of Payment of Filing Fee; Certificate of Service of Appellants Patricia Kimball and Benjamin Kimball's Notice of Payment of Filing Fee (Appellant)
54. 7-Oct-2015 RECEIPT No.: 2015-01389 ; \$280.00, Authorization: #79017543810, Applied to: PATRICIA KIMBALL et al. - Class A Filing Fee (\$280.00) Paid for: Cavanagh Law Firm - By Integrated Resource Systems IN
55. 15-Oct-2015 ORDERED: Request for Oral Argument (7 Bar, LLC and Banjo, LLC) (Appellant) and Appellees/Cross-Appellants' Request for Oral Argument; (Appellee Memi and Silkie Perkins) = GRANTED. Hon Michael J Brown - Author
56. 5-Nov-2015 FILED: Returned US Mail, Order Granting Oral Argument dated 11/5/15, addressed to Dulcy Moore Perkins, Return to Sender- Undeliverable
57. 28-Jan-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
58. 31-Mar-2016 CLNDR: MONTHLY COURT CASE CALENDAR, Department A, 5-10-16, 10:15 am, COURTROOM 1.
59. 7-Apr-2016 FILED: Notice of Oral Argument
60. 7-Apr-2016 FILED: Return Receipt for Notice of Oral Argument signed by Michael Plati on 4/7/16; Certificate of Service (Appellant-Cross Appellees 7 Bar, et al)
61. 14-Apr-2016 FILED: Return Receipt for Notice of Oral Argument signed by David A Selden and Justin V Niedzialek on 4/7/16; Certificate of Service (Appellant)
62. 18-Apr-2016 FILED: Courtesy copy of Return Receipt Re Oral Argument, signed by David Selden & Justin V Nedzialek, on 4/7/16 (Appellant)

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**74 PROCEEDING ENTRIES**

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| 63. | 28-Apr-2016 | FILED: Return Receipt for Notice of Oral Argument signed by Mark C Dangerfield on 4/7/16; Certificate of Service (Appellees/Cross-Appellants)   |
| 64. | 10-May-2016 | FILED: Sign-in Sheet/Case is Under Advisement (Dept A)  |
| 65. | 5-Jul-2016  | MEMORANDUM DECISION (Affirmed as Modified) Hon Kent E Cattani Judge - Author; Hon Margaret H Downie - Concur; Hon Donn Kessler - Concur   |
| 66. | 5-Jul-2016  | FILED: Memorandum Decision Distribution List  |
| 67. | 18-Jul-2016 | FILED: Silkie Perkins and Memi Perkins' Application for Award of Attorneys' Fees on Appeal; Certificate of Service; Exhibit A (Cross-Appellant)   |
| 68. | 19-Jul-2016 | FILED: Statement of Costs; Certificate of Service (Cross-Appellant)   |
| 69. | 5-Aug-2016  | FILED: ASC Order filed 8/5/16 re: extending time for filing Petition for Review to 9/6/16   |
| 70. | 11-Aug-2016 | ORDERED: awarding Appellees Silkie Perkins and Memi Perkins attorney's fees in amount of \$50,000.00 and expenses in amount of \$3,818.30 for a total award of \$53,818.30. Hon Kent E Cattani Judge - Author |
| 71. | 6-Sep-2016  | FILED: Email Notice from ASC re: Petition for Review filed 9/6/16; request for partial record   |
| 72. | 7-Sep-2016  | FILED: Letter forwarding partial record to Arizona Supreme Court  |
| 73. | 30-Sep-2016 | FILED: Returned US Mail, Order re: Attorney's Fees and Costs dated 08/11/2016, addressed to Amanda Calvert, Undeliverable - Returned For Better Address   |
| 74. | 30-Sep-2016 | FILED: Returned US Mail, Letter re: record transferred to Supreme Court dated 09/07/2016, addressed to Amanda Calvert, Undeliverable - Returned For Better Address  |