

Court of Appeals, Division One
Civil Appeal

1 CA-CV 14-0752

MARKHAM v. FDIC et al.

Appellate Case Information Case Filed: 24-Nov-2014 Case Closed:	Dept/Composition Department A Hon. Peter B Swann Hon. Lawrence F Winthrop Hon. Donn Kessler
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Side 1. MARKHAM CONTRACTING CO., INC., an Arizona corporation, Plaintiff/Appellant
(Litigant Group) MARKHAM CONTRACTING CO INC

- Markham Contracting Co Inc
- Co-Counsel for: Plaintiff/Appellant**
 Thomas L Hudson, Esq. (AZ Bar No. 14485)
 Eric M Fraser, Esq. (AZ Bar No. 27241)
 Karen A Palecek, Esq. (AZ Bar No. 11944)

Side 2. FEDERAL DEPOSIT INSURANCE COMPANY, as receiver for First Arizona Savings and Loan Association, a federal savings bank; PRIMEAZ/LIBRA, LLC, an Arizona limited liability company, Defendant/Appellee
(Litigant Group) FEDERAL DEPOSIT INSURANCE CO

- Federal Deposit Insurance Company
- Attorneys for: Defendant/Appellee FDIC**
 Frank S Tomkins, Esq. (AZ Bar No. 12914)
 Scott A Malm, Esq. (AZ Bar No. 18484)
- (Litigant Group) PRIMEAZ/LIBRA**
- PrimeAZ/Libra LLC
- Attorneys for: Defendant/Appellee PrimeAZ/Libra**
 Richard Q Nye, Esq. (AZ Bar No. 3831)
 Benjamin J Branson, Esq. (AZ Bar No. 29233)

CASE STATUS

Aug 24, 2016....Motion for Reconsideration Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2010-000707	Breach of Contract; Lien Foreclosure; Unjust Enrichment		Dawn M Bergin, Authoring Judge of Order		

3 PENDING MATTERS

- General Motion** Filed: 23-Aug-2016
Application for Attorneys' Fees (Appellant)
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- General Motion** Filed: 23-Aug-2016
Verified Statement of Costs; Certificate of Service (Appellant)
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- General Motion** Filed: 24-Aug-2016
Defendants/Appellees' Motion for Reconsideration or, in the Alternative (Appellee)

CASE DECISION

09-Aug-2016 **OPINION**

Peter Swann.....Author
 Lawrence Winthrop.....Concur
 Donn Kessler.....Concur

Filed: 09-Aug-2016	Mandate:
Decision Disposition	
Affirmed in Part	
Reversed in Part	
Remanded in Part	

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43 PROCEEDING ENTRIES

1. 24-Nov-2014 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 10/16/14
Bond filed in Superior Court: 10/20/14
Docketing Statement filed in Superior Court: 10/30/14
2. 24-Nov-2014 FILED: e-Record on Appeal:
Instruments/Minute Entries
3. 3-Dec-2014 FILED: Notice to Counsel re: Appellant's Fee/Brief Due
4. 10-Dec-2014 FILED: Letter, 12/10/14, to Court, from Osborn Maledon, re: Payment of Filing Fee (Appellant)
5. 15-Dec-2014 RECEIPT No.: 2014-01540 ; \$280.00, Authorization: 49002225677, Applied to: MARKHAM CONTRACTING CO INC - Class A
Filing Fee (\$280.00) Paid for: Osborn Maledon PA - By Intresys Inc
6. 19-Dec-2014 FILED: Appellee's Notice re: Appellee Federal's Fee Due/Appellant's Brief Due
7. 30-Dec-2014 RECEIPT No.: 2014-01612 ; \$140.00, Check Number: #522353, Applied to: FEDERAL DEPOSIT INSURANCE CO - Class B
Filing Fee (\$140.00) Paid for: - By Gust Rosenfeld PLC
8. 31-Dec-2014 FILED: Notice of Appearance; Certificate of Service (Appellant)
9. 2-Jan-2015 FILED: Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
10. 5-Jan-2015 ORDERED: Motion for Extension of Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday,
01-12-2015 to Wednesday, 02-11-2015. Melina Brill ProTem Judge - Author
11. 14-Jan-2015 FILED: Notice of Filing Transcripts; Certificate of Service; Reporter's Transcript - 8/1/11 (Hilda Lopez); Reporter's Transcript -
5/24/14 (Dorothy Gravelle) (Appellant)
12. 14-Jan-2015 FILED: Reporter's Transcript - 5/6/13 (Hilda Lopez); Reporter's Transcript - 3/28/14 (Hilda Lopez); Reporter's Transcript - 8/8/14
(Lisa Berkey) (Appellant)
13. 29-Jan-2015 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellee)
14. 2-Feb-2015 RECEIPT No.: 2015-00144 ; \$140.00, Authorization: 33004477098, Applied to: PRIMEAZ/LIBRA - Class B Filing Fee (\$140.00)
Paid for: Hennelly & Grossfeld LLP - By Integrated Resource Systems IN
15. 11-Feb-2015 FILED: Request for Oral Argument; Certificate of Service (Appellant)
16. 11-Feb-2015 FILED: Plaintiff/Appellant's Opening Brief; Certificate of Compliance; Certificate of Service
17. 11-Feb-2015 FILED: Separate Appendix to Plaintiff/Appellant's Brief Volume 1 of 2
18. 11-Feb-2015 FILED: Separate Appendix to Plaintiff/Appellant's Brief Volume 2 of 2
19. 4-Mar-2015 FILED: Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee)
20. 4-Mar-2015 ORDERED: Motion for Extension of Time to File Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Monday,
03-30-2015 to Wednesday, 04-29-2015. Melina Brill ProTem Judge - Author
21. 29-Apr-2015 FILED: Defendants/Appellees' Answering Brief; Defendants/Appellees' Certificate of Compliance; Defendants/Appellees'
Certificate of Service
22. 7-May-2015 FILED: Stipulation for Extension of Time to File Reply Brief; Certificate of Service (Appellant)
23. 11-May-2015 ORDERED: Stipulation for Extension of Time to File Reply Brief(Appellant) = GRANTED. Due date EXTENDED from Tuesday,
05-26-2015 to Tuesday, 06-09-2015. Melina Brill ProTem Judge - Author
24. 8-Jun-2015 FILED: Plaintiff/Appellant's Reply Brief; Certificate of Compliance; Certificate of Service
25. 1-Jul-2015 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
26. 10-Jul-2015 FILED: Supplemented Superior Court e-Record with Revised Index of Record
27. 21-Jul-2015 ORDERED: Request for Oral Argument (Appellant) = GRANTED.

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28. 29-Dec-2015 CLNDR: MONTHLY COURT CASE CALENDAR, Department A, 2-9-16, 09:30 am, COURTROOM 1.
29. 5-Jan-2016 FILED: Notice of Oral Argument
30. 6-Jan-2016 FILED: Return Receipt Re Oral Argument, signed by Richard Q. Nye, on 1/5/16; Return Receipt Re Oral Argument, signed by Richard Q. Nye, on 1/5/16 (Appellee PrimeAZ)
31. 11-Jan-2016 FILED: Return Receipt Re Oral Argument, signed by Scott Malm, on 1/6/16
32. 27-Jan-2016 FILED: Return Receipt for Notice of Oral Argument signed by Thomas L Hudson on 1/5/16 (Appellant)
33. 2-Feb-2016 ORDERED: moving oral argument in this matter now scheduled before department A on 2/9/16 at 9:30 am to hour of 2:30 pm on 2/9/16. Hon Peter B Swann - Author
34. 9-Feb-2016 FILED: Sign-in Sheet/Case is Under Advisement (Dept A)
35. 15-Jul-2016 FILED: Notice of Change of Firm Address; Certificate of Service (Appellant)
36. 9-Aug-2016 OPINION (Affirmed in Part, Reversed in Part, Remanded in Part) Hon Peter B Swann - Author; Hon Lawrence F Winthrop - Concur; Hon Donn Kessler - Concur
37. 9-Aug-2016 FILED: Opinion Distribution List
38. 23-Aug-2016 FILED: Verified Statement of Costs; Certificate of Service (Appellant)
39. 23-Aug-2016 FILED: Application for Attorneys' Fees; Certificate of Service; Declaration of Thomas L. Hudson in Support of Application for Attorneys' Fees; Declaration of Karen A. Palecek in Support of Application for Attorneys' Fees (Appellant)
40. 24-Aug-2016 FILED: Defendants/Appellees' Motion for Reconsideration or, in the Alternative, Clarification; Certificate of Compliance; Certificate of Service (Appellee)
41. 9-Sep-2016 FILED: Defendants/Appellees' Response to Plaintiff/Appellant's Application for Attorneys' Fees; Certificate of Service (Appellant)
42. 9-Sep-2016 FILED: Defendants/Appellees' Certificate of Compliance; Certificate of Service (Appellee)
43. 21-Sep-2016 FILED: Reply in Support of Application for Attorneys' Fees; Certificate of Service (Appellant)