

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

**1 CA-CV 14-0818**

**CALABRESE v. FORTIN et al.**

<b>Appellate Case Information</b> Case Filed: 19-Dec-2014 Case Closed:	<b>Dept/Composition</b>
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**Side 1. FRANCO CALABRESE, a single man, Plaintiff/Appellant**  
**(Litigant Group) FRANCO CALABRESE**

<ul style="list-style-type: none"><li>● Franco Calabrese</li></ul>	<b>Attorneys for: Plaintiff/Appellant</b> Mark D Goldman, Esq. (AZ Bar No. 12156) Carolyn J Goldman, Esq. (AZ Bar No. 16440)
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**Side 2. CHRISTINA M. FORTIN, a single woman; JOSEPH ALAN RAPPAZZO, a single man; SUSAN GUNDERSON, a single woman; JIM BROWN, a single man; DREEM GREEN aka DREEM GREEN INC., an Arizona non-profit corporation, Defendant/Appellee**  
**(Litigant Group) CHRISTINA M FORTIN, et al**

<ul style="list-style-type: none"><li>● Jim Brown</li><li>● Dreem Green Inc</li><li>● Christina M Fortin</li></ul>	<b>Attorney for: Defendant/Appellee</b> Steven D Jerome, Esq. (AZ Bar No. 18420) Anthony T King, Esq. (AZ Bar No. 027459)
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**(Litigant Group) RAPPAZZO/GUNDERSON**

<ul style="list-style-type: none"><li>● Joseph Alan Rappazzo</li><li>● Susan Gunderson</li></ul>	<b>Co-Counsel for: Defendants/Appellees Rapazzo et al.</b> Benjamin Robert Jemsek, Esq. (AZ Bar No. 19833) Joseph N Roth, Esq. (AZ Bar No. 25725) Brian K Mosley, Esq. (AZ Bar No. 30841)
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**CASE STATUS**

Nov 14, 2016...At Issue

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2013-050329	Injunctive Relief; Declaratory Judgment; Breach of Contract [see file]		John R Hannah, Authoring Judge of Order		

**2 OPEN DUE DATES**

**Response to Motion to Dismiss due** **Due By:** Tuesday, December 27, 2016

*Re: FILED: Motion to Dismiss Appeal as Moot and to Strike New Arguments or in the Alternative for Leave to File a Sur-Reply; Certificate of Service (Appellee)*

**Reply to Motion due** **Due By:** Tuesday, December 27, 2016

*Re: FILED: Plaintiff/Appellant's Response to Motion to Stay Appeal filed by the Former Receiver for Dreem Green, a/k/a Dreem Green Inc.; Certificate of Service (Appellant)*

**2 PENDING MATTERS**

**General Motion** Filed: 23-Nov-2016  
*\* Motion to Stay Appeal as to Dreem Green; Certificate of Service for Motion to Stay Appeal as to Dreem Green; Exhibit 1 (Appellee)*

**General Motion** Filed: 8-Dec-2016  
*Motion to Dismiss Appeal as Moot and to Strike New Arguments or in the Alternative for Leave to File a Sur-Reply (Appellee)*

**50 PROCEEDING ENTRIES**

1.	19-Dec-2014	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 09/03/14 Bond filed in Superior Court: 9/10/14 Docketing Statement filed in Superior Court: 9/17/14
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2. 19-Dec-2014 FILED: e-Record on Appeal: Instruments/Minute Entries
3. 8-Jan-2015 FILED: Notice to Parties re: Appellant's Fee/Brief Due
4. 22-Jan-2015 RECEIPT No.: 2015-00072 ; \$280.00, Check Number: #1840, Applied to: FRANCO CALABRESE - Class A Filing Fee (\$280.00) Paid for: - By Goldman & Zwilling PLLC
5. 27-Jan-2015 FILED: Appellee's Notice re: Appellees' Fees' Due/Appellant's Brief Due
6. 27-Jan-2015 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
7. 27-Jan-2015 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
8. 27-Jan-2015 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
9. 24-Feb-2015 FILED: Appellant's First Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
10. 26-Feb-2015 ORDERED: Appellant's First Motion for Extension of Time to File Opening Brief = GRANTED. Due date EXTENDED from Monday, 03-09-2015 to Wednesday, 04-08-2015. Melina Brill ProTem Judge - Author
11. 3-Apr-2015 FILED: Reporter's Transcript of Proceedings 4/22/13 (Kellie L Konicke); Notice of Filing and Serving Deposition Transcript of Franco Calabrese; Certificate of Service (Appellant)
12. 3-Apr-2015 FILED: Reporter's Transcript of Proceedings 4/26/13 (Kellie L Konicke); Notice of Filing and Serving Deposition Transcript of Christina M. Fortin; Certificate of Service (Appellant)
13. 8-Apr-2015 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service; (Appellant's Opening Brief) Appendix - Exhibits 1 through 8 (Appellant)
14. 8-Apr-2015 FILED: (Appellant's Opening Brief) Appendix - Exhibit 9 - Plaintiff's Response to Defendant, Christina Fortin's, Motion for Summary Judgment - A thru H; (Appellant's Opening Brief) Appendix - Exhibit 9 - Plaintiff's Response to Defendant, Christina Fortin's, Motion for Summary Judgment - I thru J; (Appellant's Opening Brief) Appendix - Exhibit 10 through 25 (Appellant)
15. 13-Apr-2015 FILED: Notice of Appearance; Certificate of Service of Notice of Appearance (Appellees Fortin, et al.)
16. 13-Apr-2015 FILED: Stipulation for Extension of Time; Certificate of Service (Appellee)
17. 15-Apr-2015 ORDERED: Stipulation for Extension of Time; (Answering Briefs) (Appellee) = GRANTED. Due date EXTENDED from Tuesday, 05-26-2015 to Thursday, 06-25-2015. Melina Brill ProTem Judge - Author
18. 17-Apr-2015 RECEIPT No.: 2015-00503 ; \$140.00, Authorization: 06013573499, Applied to: CHRISTINA M FORTIN, et al - Class B Filing Fee (\$140.00) Paid for: Fredenberg Beams LLC - By Integrated Resource Systems IN
19. 5-Jun-2015 FILED: Notice of Settlement; Certificate of Service (Appellee)
20. 16-Jun-2015 FILED: Second Stipulation to Extend Time; Certificate of Service (Appellee)
21. 17-Jun-2015 ORDERED: extending time for Christina M Fortin, Jim Brown, and Dreem Green to file their answering brief to/including 7/29/15. Melina Brill ProTem Judge - Author
22. 23-Jun-2015 FILED: Stipulation for Extension of Time to File Answering Brief; Certificate of Service; Order (Appellee)
23. 24-Jun-2015 ORDERED: Stipulation for Extension of Time to File Answering Brief (Appellee) = DENIED. FURTHER ORDERED: Answering brief shall be filed on/before 7/6/15. Melina Brill ProTem Judge - Author
24. 25-Jun-2015 RECEIPT No.: 2015-00882 ; \$140.00, Authorization: #75016858433, Applied to: RAPPAZZO/GUNDERSON - Class B Filing Fee (\$140.00) Paid for: Jaburg & Wilk PC - By Integrated Resource Systems
25. 25-Jun-2015 FILED: Notice of Disassociation of Attorney from Firm and Association of New Counsel Within Firm; Certificate of Service (Appellant)
26. 6-Jul-2015 FILED: Answering Brief; Certificate of Compliance; Certificate of Service (Appellee Rappazzo, et al.)
27. 6-Jul-2015 FILED: Appendix to Answering Brief (Appellee Rappazzo, et al.)

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28. 15-Jul-2015 ORDERED: vacating the briefing schedule. FURTHER ORDERED: staying the appeal until further order. Melina Brill ProTem Judge - Author
29. 17-Jul-2015 ORDERED: setting the telephonic assessment conference for 8/3/15 at 10:00 a.m. Counsel shown on the attached list shall call the court's conference line at (602) 542-1484. The clients should not be part of the initial assessment conference. Judge Diane M. Johnsen will conduct the telephonic conference. Please notify the Court immediately by email at SettlementProgram@appeals.az.gov. If the appeal is settled, the appeal is dismissed, or if counsel has an unavoidable scheduling conflict. Melina Brill ProTem Judge - Author
30. 3-Aug-2015 ORDERED: (Judge Diane M Johnsen conducted a telephonic assessment conference in anticipation of a possible settlement) Given that mediation may finally resolve some of claims in this appeal, a second telephonic assessment conference in this case will take place at 10:30 am on 9/24/15. Hon Diane M Johnsen - Author
31. 4-Sep-2015 ORDERED: the telephonic assessment conference set in this at on 9/24/15, has been reset to 2:00 pm on 9/24/15. Counsel should call the court's conference line at (602) 542-1484. Hon Diane M Johnsen - Author
32. 25-Sep-2015 ORDERED: (Telephonic assessment having been held and finding good cause to continue settlement discussions) setting an additional telephonic assessment conference for 11/16/15 @ 10 am. FURTHER ORDERED: Stay previously granted will remain in place. Hon Diane M Johnsen - Author
33. 17-Nov-2015 ORDERED: Parties shall provide notice by email to settlementprogram@appeals.az.gov of dated of Rule 16.2 hearing before Judge Warner. FURTHER ORDERED: Parties ask Judge Warner to endorse settlementprogram@appeals.az.gov on order in which he rules on Rule 16.2 motion. Hon Diane M Johnsen - Author
34. 7-Jan-2016 FILED: Motion for Withdrawal; Certificate of Service; Proposed Order Approving Withdrawal (Appellee)
35. 19-Jan-2016 ORDERED: directing parties to send as status report by email to SettlementProgram@appeals.az.gov on/before 2/1/16, which date of scheduled hearing and if hearing already occurred, result of that hearing. If parties fail to comply w/ this order, case will be removed from settlement conference program and set a due date for opening brief. Hon Diane M Johnsen - Author
36. 9-Feb-2016 ORDERED: Motion for Withdrawal (Attorney Daniel E Fredenberg) (Appellee) = GRANTED. FURTHER ORDERED: Appellees are reminded that a corporation may not appear in court without an attorney. Barbara Vidal Vaught ProTem Judge - Author
37. 11-Feb-2016 FILED: Motion to Withdraw as Counsel of Record; Certificate of Service; Proposed Order (Appellee)
38. 3-Mar-2016 FILED: Motion to Substitute as Counsel for Appellee Joseph Alan Rappazzo; Certificate of Service; Application in Support of Motion to Substitute as Counsel for Appellee Joseph Alan Rappazzo; Proposed Order Approving Motion to Substitute as Counsel for Appellee Joseph Alan Rappazzo (Appellee)
39. 7-Mar-2016 ORDERED: Motion to Substitute as Counsel for Appellee Joseph Alan Rappazzo = GRANTED/substituting Ben R Jemsek of law firm Thrasher Jemsek, PLC as attorney for appellee Rappazzo in place of Thomas Moring. Barbara Vidal Vaught ProTem Judge - Author
40. 19-Sep-2016 ORDERED: Upon review of the settlement program docket, court is inclined to schedule a settlement conference in this appeal for a date in October 2016. So that settlement efforts may proceed, Judge Diane M Johnsen would like to convene all counsel in appeal for a conference call on 09/26, 27, or 29. Counsel for appellant Franco Calabrese is directed to canvass the lawyers for other parties in appeal to ascertain a convenient day and time from among those dates and to forward that information to the settlement conference attorney, Melina Brill at mbrill@appeals.az.gov. Hon Diane M Johnsen - Author
41. 27-Sep-2016 ORDERED: both parties shall inform the court and opposing counsel by email no later than 10/04/2016, whether they would like to participate in a settlement conference in this matter, and, if so, as to their availability on 10/17, 10/31, and 11/10/2016 for such conference. FURTHER ORDERED: counsel are directed to email their response to mbrill@appeals.az.gov and to copy all other counsel with their message. Hon Diane M Johnsen - Author
42. 5-Oct-2016 ORDERED: all counsel shall inform Staff Attorney Melina Brill at mbrill@appeals.az.gov no later than Monday [sic], October 11, whether they wish to proceed with a settlement conference with Judge Johnsen. If not all parties agree to do so, settlement conference will be assigned to another judge. Hon Diane M Johnsen - Author
43. 14-Oct-2016 FILED: Notice of Appearance; Certificate of Service (Appellees)
44. 14-Oct-2016 ORDERED: removing this appeal from the court's settlement conference program, and lifting the stay of this appeal. FURTHER ORDERED: reply brief due 11/14/2016. FURTHER ORDERED: parties shall address any future motions to the court. Melina Brill ProTem Judge - Author

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45. 14-Nov-2016 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
46. 23-Nov-2016 FILED: Motion to Stay Appeal as to Dreem Green; Certificate of Service for Motion to Stay Appeal as to Dreem Green; Exhibit 1 (Appellee)
47. 5-Dec-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
48. 8-Dec-2016 FILED: Motion to Dismiss Appeal as Moot and to Strike New Arguments or in the Alternative for Leave to File a Sur-Reply; Certificate of Service (Appellee)
49. 12-Dec-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
50. 14-Dec-2016 FILED: Plaintiff/Appellant's Response to Motion to Stay Appeal filed by the Former Receiver for Dreem Green, a/k/a Dreem Green Inc.; Certificate of Service (Appellant)