Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0025 LEE v. ING

Appellate Case Information

Case Filed: 16-Jan-2015

Case Closed:

Dept/Composition

Department B

Hon. Samuel A Thumma
Hon. Maurice Portley
Hon. John C Gemmill

Side 1. CURTIS F. LEE, Plaintiff/Appellee-Cross Appellant

(Litigant Group) CURTIS F LEE

- **Curtis F Lee** PRO SE

Side 2. ING INVESTMENT MANAGEMENT, LLC, a Delaware limited liability company, Defendant/Appellant-Cross Appellee

(Litigant Group) ING INVESTMENT MANAGEMENT LLC

- **ING Investment Management LLC**

Attorneys for: Defendant/Appellant-Cross Appellee

Tracy A Miller, Esq. (AZ Bar No. 15920)

Caroline K Larsen, Esq. (AZ Bar No. 22547)

CASE STATUS

Jan 10, 2017....Pending Closure

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2010-092027	Breach of Contract; Breach of Implied Covenant of Good Faith and Fair Dealing; Statutory Treble Damages		David O Cunanan, Authoring Judge of Order		

DESCENDENT CASE(S)

ASC CV-16-0194-PR

2 OPEN DUE DATES

Stay Request (re: Writ of Certiorari) due **Due By:** Wednesday, January 25, 2017

Re: Minute Letter of ASC: Petition for Review DENIED

Response to Motion due **Due By:** Monday, February 6, 2017

Re: FILED: Motion for Issuance of Mandate for Final Judgment (Appellant Pro Per)

PENDING MATTER

General Motion Filed: 18-Jan-2017

Motion for Issuance of Mandate for Final Judgment (Appellant Pro Per)

CASE DECISION

16-Jun-2016 OPINION

John Gemmill.....Author
Samuel Thumma.....Concur
Maurice Portley.....Concur

Filed: **16-Jun-2016** Mandate:

Decision Disposition
Affirmed

61 PROCEEDING ENTRIES

1.	16-Jan-2015	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 12/09/14 (Def); Notice of Cross Appeal from Maricopa County Superior Court filed 12/24/14 (Plf); Notice of Cross Appeal filed 12/24/14 (from Def)
2.	27-Jan-2015	FILED: e-Record on Appeal: Instruments/Minute Entries

Information presented in this document may not reflect all case activity and is subject to change without notice.

61 PROCEEDING ENTRIES

3.	3-Feb-2015	FILED: Notice to Parties re: Appellant/Cross-appellee's Fee/Case Management Statement/Brief Due
4.	4-Feb-2015	RECEIPT No.: 2015-00155 ; $280.00, Check Number: #29001758, Applied to: ING INVESTMENT MANAGEMENT LLC - Class A Filing Fee ($280.00) Paid for: ING Investment Management LLC - By Ogletree Deakins Nash Smoak & Stewart PC
5.	17-Feb-2015	FILED: Appellee/Cross Appellant's Notice Re: Cross Appellant's Fee and Case Management Statement Due/Appellant's Brief Due
6.	23-Feb-2015	FILED: Case Management Statement; Ruling filed 10/24/14; Judgment filed 11/26/14 (Appellant)
7.	24-Feb-2015	RECEIPT No.: 2015-00234 ; $280.00, Check Number: #91907, Applied to: CURTIS F LEE - Class A Filing Fee ($280.00) Paid for: Curtis F Lee - By Beus Gilbert PLLC
8.	27-Feb-2015	FILED: Notice of Filing and Serving Transcripts; Notice of Filing and Serving Transcripts (Appellant)
9.	27-Feb-2015	FILED: Reporter's Transcript of Proceedings 11/10/12 - Summary Judgment (Cathy K Dowell); Reporter's Transcript of Proceedings 4/1/14 - Status Confernce (Lisa J Berkey) (Appellant)
10.	27-Feb-2015	FILED: Reporter's Transcript of Proceedings 4/29/14 - Oral Argument (Renee J Hunter); Reporter's Transcript of Proceedings 6/24/14 - Motion Hearing (J. Maire Moran) (Appellant)
11.	4-Mar-2015	FILED: Case Management Statement (Cross-Appellant)
12.	4-Mar-2015	FILED: Reporters Transcripts - 4 Vols (11/20/12) [Cathy K Dowell], (04/01/14) [Norma L Catoe], (04/29/14) [Renee J Hunter], (06/24/14) [J Marie Moran]
13.	9-Mar-2015	RECEIPT No.: 2015-00288 ; $280.00, Check Number: #68009725486, Applied to: CURTIS F LEE - Overpayment Class A ($280.00) Paid for: Beus Gilbert PLLC - By Integrated Resource Systems IN (Memo: Duplicate Pmt - See Rcpt 2015-0234 - Refund Needed)
14.	9-Mar-2015	RECEIPT No.: 2015-00293 ; $280.00, Authorization: #68009725486, Applied to: CURTIS F LEE - Overpayment Class A ($280.00) Paid for: Beus Gilbert PLLC - By Integrated Resource Systems IN (Memo: x-ref rcpt #2015-00288 Duplicate Pmt - See Rcpt 2015-0234 - Refund Needed)
15.	9-Mar-2015	VOID RECEIPT No.: 2015-00288 - $-280.00, Check Number: #68009725486, - Applied to: CURTIS F LEE - Overpayment Class A ($-280.00) Paid for: Beus Gilbert PLLC - By: Integrated Resource Systems IN (Memo: Duplicate Pmt - See Rcpt 2015-0234 - Refund Needed) VOID Reason: X-Ref 2015-00293 incorrect payment method. alc
16.	2-Apr-2015	FILED: Appellant ING Investment Management, LLC's Motion for Extension of Time to File Opening Brief; Certificate of Service of Appellant ING Investment Management, LLC's Motion for Extension of Time to File Opening Brief (Motion for Procedural Order); Exhibit A (Appellant)
17.	2-Apr-2015	FILED: Letter, 4/2/15, COA to Beus Gilbert re: Refund of duplicate filing fee
18.	3-Apr-2015	ORDERED: Appellant ING Investment Management, LLC's Motion for Extension of Time to File Opening Brief = GRANTED. Due date EXTENDED from Monday, 04-06-2015 to Tuesday, 05-05-2015. Melina Brill ProTem Judge - Author
19.	20-Apr-2015	FILED: Stipulation Concerning Briefing Schedule; Certificate of Service of Stipulation Concerning Briefing Schedule (Appellant)
20.	28-Apr-2015	ORDERED: Stipulation Concerning Briefing Schedule (Appellant) = DENIED. Parties shall file their briefs in accordance w/ ARCAP 15(a)(4) and (5). Hon Patricia A Orozco - Author
21.	5-May-2015	FILED: Appellant ING Investment Management, LLC's Opening Brief; Certificate of Compliance; Certificate of Service
22.	10-Jun-2015	FILED: Stipulation for Procedural Order Requesting An Extension of Time for Curtis Lee to File Opening Brief and his Answer to ING's Opening Brief; Certificate of Service of Stipulation for Procedural Order Requesting An Extension of Time (Appellee)
23.	11-Jun-2015	ORDERED: Stipulation for Procedural Order Requesting An Extension of Time for Curtis Lee to File Opening Brief and his Answer to ING's Opening Brief = GRANTED. Due date EXTENDED from Monday, 06-22-2015 to Wednesday, 07-22-2015. Melina Brill ProTem Judge - Author
24.	15-Jun-2015	RECEIPT No.: 2015-00821 ; $140.00, Authorization: 66006993704, Applied to: CURTIS F LEE - Overpayment Class B ($140.00) Paid for: Beus Gilbert PLLC - By Integrated Resource Systems IN
25.	15-Jun-2015	RECEIPT No.: 2015-00823 ; $140.00, Authorization: 66006993704, Applied to: CURTIS F LEE - Overpayment Class B ($140.00) Paid for: Beus Gilbert PLLC - By Integrated Resource Systems IN (Memo: Duplicate Pmt - See 2015-00234 - Refund Needed / See Rcpt 2015-00821)

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61 PROCEEDING ENTRIES

26.	15-Jun-2015	VOID RECEIPT No.: 2015-00821 - $-140.00, Authorization: 66006993704, - Applied to: CURTIS F LEE - Overpayment Class B ($-140.00) Paid for: Beus Gilbert PLLC - By: Integrated Resource Systems IN VOID Reason: X-Ref 2015-00823 Overpayment information omitted (db)
27.	30-Jun-2015	FILED: Letter, 6/30/15, from Court to Appellee, refunding duplicate Appellee Filing Fee
28.	22-Jul-2015	FILED: Motion to Dismiss Appellant IIM's Notice of Cross-Appeal and Motion to Strike Footnotes 3-5 in Appellant's Opening Brief; Certificate of Service (Appellee/Cross-Appellant)
29.	22-Jul-2015	FILED: Curtis F. Lee's Combined Opening Brief On Cross-Appeal And Answering Brief To ING Investment Management, LLC's Opening Brief On Appeal; Certificate of Compliance; Certificate of Service (Appellee/Cross-Appellant)
30.	23-Jul-2015	FILED: Notice of Errata; Certificate Of Service Re: Notice Of Errata (Appellee/Cross-Appellant)
31.	14-Aug-2015	FILED: Appellant ING Investment Management, LLC's Motion for Extension of Time to File Response to Appellee Curtis Lee's Motion to Dismiss Notice of Cross-Appeal and Motion to Strike Footnotes in Appellant's Opening Brief; Certificate of Service (Appellant)
32.	14-Aug-2015	FILED: Affidavit of Caroline Larsen (Appellant)
33.	17-Aug-2015	ORDERED: Appellant ING Investment Management, LLC's Motion for Extension of Time to File Response to Appellee Curtis Lee's Motion to Dismiss Notice of Cross-Appeal and Motion to Strike Footnotes in Appellant's Opening Brief = GRANTED. Due date EXTENDED from Monday, 08-10-2015 to Thursday, 08-20-2015. Melina Brill ProTem Judge - Author
34.	20-Aug-2015	FILED: Response to Appellee Curtis Lee's Motion to Dismiss Notice of Cross-Appeal and Motion to Strike Footnotes in Appellant's Opening Brief; Certificate of Service of Response to Appellee Curtis Lee's Motion to Dismiss (Appellant)
35.	1-Sep-2015	FILED: Reply in Support of Cross-Appellant's Motion to Dismiss Appellant IIM's Notice of Cross-Appeal and Motion to Strike Footnotes 3-5 in Appellant's Opening Brief; Certificate of Service (Appellee)
36.	8-Sep-2015	FILED: ING Investment Management, LLC's Combined Answering Brief on Cross-Appeal and Reply Brief on Appeal; Certificate of Compliance; Certificate of Service of ING Investment Management, LLC's Reply Brief (Appellant)
37.	14-Sep-2015	ORDERED: Granting Appellee's motion to dismiss Appellant's notice of cross-appeal. FURTHER ORDERED: Granting Appellee's motion to strike footnotes 3 and 4 in Appellant's Opening Brief. FURTHER ORDERED: Denying Appellee's motion to strike footnote 5 in Appellant's Opening Brief. Hon Maurice Portley - Author
38.	22-Sep-2015	FILED: Request for Oral Argument; Certificate of Service of Appellant ING Investment Management, LLC's Request for Oral Argument (Appellant)
39.	5-Oct-2015	FILED: Curtis F. Lee's Reply Brief on Cross-Appeal; Certificate of Compliance; Certificate of Service (Cross-Appellant)
40.	5-Oct-2015	FILED: Motion to Strike Arguments in Violation of ARCAP 13(b)(2) and Footnotes 4 and 11 in Appellant's Combined Brief; Certificate of Service (Cross-Appellant)
41.	27-Oct-2015	FILED: Response to Appellee Curtis Lee's Motion to Strike Arguments and Footnotes in Appellant's Combined Brief; Certificate of Service of Response (Appellant)
42.	28-Oct-2015	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
43.	5-Nov-2015	FILED: Supplemented Superior Court e-Record with Revised Index of Record
44.	9-Nov-2015	FILED: Reply in Support of Motion to Strike Arguments in Violation of ARCAP 13(B)(2) and Footnotes 4 and 11 in Appellant's Combined Brief; Certificate of Service; Exhibits 1 - 4 (Appellee)
45.	13-Nov-2015	ORDERED: Request for Oral Argument (Appellant) = GRANTED. Hon Michael J Brown - Author
46.	30-Nov-2015	ORDERED: deferring a ruling on whether to strike footnotes 4 and 11, which appear on pages 9 and 34 of reply brief/cross-appeal answering brief, to panel that consider this appeal on merits. FURTHER ORDERED: denying remainder of motion to strike. Hon Randall M Howe - Author
47.	31-Mar-2016	CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 5-17-16, 09:30 am, COURTROOM 2.
48.	7-Apr-2016	FILED: Notice of Oral Argument
49.	4-May-2016	FILED: Return Receipt Re Oral Argument, signed by Thomas A Connelly, on 4/7/16 (Appellee/Cross-Appellant)

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61 PROCEEDING ENTRIES

50.	17-May-2016	FILED: Sign-in Sheet/Case is Under Advisement (Dept B)
51.	16-Jun-2016	OPINION (Affirmed) Hon John C Gemmill - Author; Hon Samuel A Thumma - Concur; Hon Maurice Portley - Concur
52.	16-Jun-2016	FILED: Opinion Distribution List
53.	16-Jun-2016	ORDERED: Motion to Strike Arguments in Violation of Arcap 13(b)(2) and Footnotes 4 and 11 in Appellant's Combined Brief (Appellee/Cross-Appellant) = DENIED as moot Appellee's motion to the extent it seeks to strike the acceptance/offer arguments or footnotes 4 and 11 in Appellant's combined brief. FURTHER ORDERED: Denying Appellee's motion to extent it seeks any addditional relief. Hon Samuel A Thumma - Author
54.	1-Jul-2016	FILED: Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Cross-Appellant)
55.	28-Jul-2016	ORDERED: Motion for Reconsideration (Cross-Appellant) = DENIED. Hon John C Gemmill - Author
56.	11-Aug-2016	FILED: Motion for Procedural Order (Seeking Leave to Withdraw As Counsel of Record); Certificate of Service (Cross-Appellant)
57.	12-Aug-2016	ORDERED: Motion for Procedural Order (Seeking Leave to Withdraw As Counsel of Record)(Cross-Appellant) = GRANTED. Hon Samuel A Thumma - Author
58.	15-Aug-2016	FILED: Email Notice from ASC re: Petition for Review filed 8/12/16; request for partial record
59.	15-Aug-2016	FILED: Letter forwarding partial record to Arizona Supreme Court
60.	10-Jan-2017	FILED: Letter from ASC, 01/10/2017, re: Petition for Review DENIED on 01/10/2017
61.	18-Jan-2017	FILED: Motion for Issuance of Mandate for Final Judgment (Appellant Pro Per)

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