

**Court of Appeals, Division One**  
**Civil - Family Court**

**1 CA-CV 15-0316 FC**

**DEMARIO v. DEMARIO**

**Appellate Case Information**

Case Filed: 15-May-2015  
Case Closed:

**Dept/Composition**

**Department C**  
Hon. Diane M Johnsen  
Hon. Jon W Thompson  
Hon. Paul J McMurdie

Consolidated with: 1 CA-CV 15-0317 FC

**Side 1. In re the Marriage of:**

**CHRISTIE MAY DEMARIO, Petitioner/Appellant**  
(Litigant Group) CHRISTIE MAY DEMARIO

• Christie May DeMario PRO SE

**Side 2. ERIC DAVID DEMARIO, Respondent/Appellee**  
(Litigant Group) ERIC DAVID DEMARIO

• Eric David DeMario **Attorneys for: Respondent/Appellee**  
Heidi A Lukacsik, Esq. (AZ Bar No. 024459)

**CASE STATUS**

Dec 7, 2016.....Under Advisement

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR FC2012-071473	Motion for New Trial		Carey Snyder Hyatt, Authoring Judge of Order		

**CASE DECISION**

10-Mar-2016 **ORDER**



\*\*\*Vacated\*\*\*  
Vacated per order filed 3/10/16. ORDERED: dismissing this appeal.

Filed: 10-Mar-2016 Mandate:

Decision Disposition
<b>Dismissed</b>

Barbara Vidal Vaught.....Author

**DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)**

1 CA-CV 15-0317 FC DEMARIO v. DEMARIO

**114 PROCEEDING ENTRIES**

- 15-May-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 04/17/15
- 15-May-2015 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits - not sent at this time
- 26-May-2015 FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
- 8-Jun-2015 RECEIPT No.: 2015-00782 ; \$280.00, Check Number: #1062, Applied to: CHRISTIE MAY DEMARIO - Class A Filing Fee (\$280.00) Paid for: - By Kenneth R Creasy
- 12-Jun-2015 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
- 15-Jun-2015 FILED: Motion for Pro Per Representation for Appellate Issues; Certificate of Service (Appellant)
- 15-Jun-2015 FILED: Case Management Statement; Decree dated 2/3/15, filed 2/5/15; Minute Entry dated 3/27/15, filed 4/3/15 re: denying motion for new trial; Notice of Appeal filed 4/17/15 (Appellant Pro Per)
- 17-Jun-2015 FILED: Courtesy Copy of Motion for Pro Per Representation for Appellate Issues (Appellant Pro Per)
- 19-Jun-2015 RECEIPT No.: 2015-00852 ; \$140.00, Check Number: #22076, Applied to: ERIC DAVID DEMARIO - Class B Filing Fee (\$140.00) Paid for: - By William D. Bishop PC

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10. 19-Jun-2015 ORDERED: Motion for Pro Per Representation for Appellate Issues (Appellant) = GRANTED/COA shall amend record by removing Elizabeth J Martinez as attorney of record on appeal for appellant. FURTHER ORDERED: Consolidating case 1 CA-CV 15-0316 with 1 CA-CV 15-0317. Case No. 1 CA-CV 15-0316 is designated primary number and above caption shall be used on all future documents. FURTHER ORDERED: Appellee's filing fee in amount of \$140 for appeal 1 CA-CV 15-0316 is due on/before 6/26/15. FURTHER ORDERED: Appellee's filing fee in amount of \$140 for appeal 1 CA-CV 15-0317 is due on/before 6/29/15. FURTHER ORDERED: Opening brief is due on 7/27/15. Melina Brill ProTem Judge - Author
11. 12-Jul-2015 FILED: Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
12. 14-Jul-2015 ORDERED: Motion for Extension of Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 07-27-2015 to Wednesday, 08-26-2015. Melina Brill ProTem Judge - Author
13. 22-Jul-2015 FILED: Notice of Filing and Serving of 3/4/14 Proceeding; Certification of Service (Appellant Pro Per)
14. 22-Jul-2015 FILED: Reporter's Transcript of Proceeding - 3/4/14 (J. Marie Moran) (Appellant Pro Per)
15. 22-Jul-2015 FILED: Notice of Filing and Serving of 1/14/15 Proceeding; Certification of Service (Appellant Pro Per)
16. 22-Jul-2015 FILED: Reporter's Transcript of Proceeding - 1/14/15 (Dorothy Gravelle) (Appellant Pro Per)
17. 22-Jul-2015 FILED: Notice of Filing and Serving of 8/24/12 Proceeding; Certification of Service (Appellant Pro Per)
18. 22-Jul-2015 FILED: Reporter's Transcript of Proceeding - 8/24/12 (Peggy M Edens) (Appellant Pro Per)
19. 10-Aug-2015 FILED: Notice of Filing and Serving Transcript of 05/10/2013 Proceedings (Appellant Pro Per)
20. 10-Aug-2015 FILED: (Copy of) Reporters Transcript (05/10/13 [Karen R Bolton])
21. 10-Aug-2015 FILED: (Copy of) Reporters Transcript (05/02/13 [Karen R Bolton])
22. 10-Aug-2015 FILED: Notice of Filing and Serving Transcript of 05/02/2013 Proceedings (Appellant Pro Per)
23. 17-Aug-2015 FILED: Motion for Extension of Time to File Opening Brief (Appellant Pro Per)
24. 19-Aug-2015 ORDERED: Motion for Extension of Time to File Opening Brief (Appellant Pro Per) = GRANTED. Due date EXTENDED from Wednesday, 08-26-2015 to Friday, 09-25-2015, Due date EXTENDED from Wednesday, 08-26-2015 to Friday, 09-25-2015. Melina Brill ProTem Judge - Author
25. 22-Sep-2015 FILED: Notice of Filing and Serving Transcript of 11/13/2013 Proceeding; Certification of Service (Appellant Pro Per)
26. 22-Sep-2015 FILED: Reporter's Transcript of Proceedings 11/13/13 (Sandra J Worrell) (Appellant Pro Per)
27. 22-Sep-2015 FILED: Notice of Filing and Serving Transcript of 12/18/2013 Proceeding; Certification of Service (Appellant Pro Per)
28. 22-Sep-2015 FILED: Reporter's Transcript of Proceedings 12/18/13 (Sandra J Worrell) (Appellant Pro Per)
29. 22-Sep-2015 FILED: Notice of Filing and Serving Transcript of 08/13/2014 Proceeding; Certification of Service (Appellant Pro Per)
30. 22-Sep-2015 FILED: Reporter's Transcript of Proceedings 8/13/14 (Laura I Blair) (Appellant Pro Per)
31. 22-Sep-2015 FILED: Notice of Filing and Serving Transcript of 09/22/2014 Proceeding; Certification of Service (Appellant Pro Per)
32. 22-Sep-2015 FILED: Reporter's Transcript of Proceedings 9/22/14 (Sandra J Worrell) (Appellant Pro Per)
33. 30-Sep-2015 FILED: Notice of Filing of USPS Certified Tracking Numbers; Certificate of Service (Appellant Pro Per)
34. 12-Oct-2015 FILED: Motion for Leave to File Opening Brief via Courier & Proceed in Forma Pauperis; Certificate of Service (Appellant Pro Per)
35. 29-Oct-2015 FILED: Notice of Change of Law Firm of Counsel for Respondent; Certificate of Service (Appellee)
36. 3-Nov-2015 FILED: Motion to Dismiss Appellant Appeal; Certificate of Service (Appellee)
37. 4-Nov-2015 ORDERED: Motion for Leave to File Opening Brief via Courier & Proceed in Forma Pauperis (Appellant) = GRANTED in part and allowing appellant to file two hard copies of opening brief w/ this court on/before 11/16/15. FURTHER ORDERED: Appellant shall serve appellee w/ opening brief in accordance w/ ARCAP 4(f). FURTHER ORDERED: Denying appellant's request to proceed in forma pauperis w/o prejudice to appellant filing any necessary paperwork for a waiver of court fees and/or costs. Melina Brill ProTem Judge - Author

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38. 16-Nov-2015 FILED: Appellant's Opening Brief (Appellant Pro Per) (stricken per order filed on 12/15/15 - rsl)
39. 19-Nov-2015 FILED: Motion to Dismiss for Failure to Timely File Proper Opening Brief or Alternative Motion to Strike Opening Brief for Exceeding Word Count; Certificate of Service (Appellee)
40. 23-Nov-2015 FILED: Reply to Motion to Dismiss Dated 11/3/15; Certificate of Service; Attachments for reply motion (Appellant Pro Per)
41. 15-Dec-2015 ORDERED: Motion to Dismiss Appellant Appeal (Appellee) = DENIED. FURTHER ORDERED: granting motion to strike and striking opening brief filed on 11/16/15. FURTHER ORDERED: Granting appellant to/including 1/15/16 to file brief that complies with Arizona Rules of Civil Appellate Procedure. Melina Brill ProTem Judge - Author
42. 11-Jan-2016 FILED: Reporter's Transcript - 11/27/13 - Expedited Telephonic Status Conference (Thelma Neal) (Appellant)
43. 11-Jan-2016 FILED: Notice Of Filing And Serving Of Transcript Of 11/27/2013 Proceeding; Certificate of Service (Appellant)
44. 12-Jan-2016 FILED: Reporter's Transcript - 09/29/2014 - Telephonic Status Conference (Thelma J Neal) (Appellant)
45. 12-Jan-2016 FILED: Notice of Filing and Serving of Transcript of 09/29/2014 Proceeding; Certificate of Service (Appellant Pro Per)
46. 12-Jan-2016 FILED: Reporter's Transcript - 05/30/2014 - Telephonic Status Conference (Thelma J Neal) (Appellant Pro Per)
47. 12-Jan-2016 FILED: Certificate of Service (of Notice of Filing and Serving of Transcript of 05/30/2014 Proceeding); Certificate of Service (of Notice of Filing and Serving of Transcript of 05/30/2014 Proceeding) (duplicate) (Appellant)
48. 13-Jan-2016 FILED: Motion for Extension of Time Brief Due To Transcription ETA Completion ETA Completion Dates of 1/23/16-1/25/16; Certificate of Service of Motion (Appellant)
49. 14-Jan-2016 ORDERED: Motion for Extension of Time Brief Due To Transcription ETA Completion ETA Completion Dates of 1/23/16-1/25/16 (Appellant) = DENIED. FURTHER ORDERED: Opening brief shall be filed on/before 1/25/16. If Opening brief is not filed on/before 1/25/16, court shall dismiss this appeal. Melina Brill ProTem Judge - Author
50. 21-Jan-2016 FILED: Reporter's Transcript - 02/12/13 - Temporary Orders Hearing (Karen Bolton)
51. 21-Jan-2016 FILED: Reporter's Transcript - 03/27/2013 - Status Conference (Karen Bolton)
52. 21-Jan-2016 FILED: Reporter's Transcript - 05/29/2013 - Telephonic Status Conference (Karen Bolton)
53. 21-Jan-2016 FILED: Reporter's Transcript - 08/15/2013 - Hearing (Karen Bolton)
54. 22-Jan-2016 FILED: Notice of Filing and Serving Transcript to 11/09/2012 Proceeding (Appellant Pro Per)
55. 22-Jan-2016 FILED: Reporter's Transcript - 11/09/2012 - (Christine M Coaly) (Appellant Pro Per)
56. 22-Jan-2016 FILED: Notice of Filing and Serving Transcript of 02/12/2013 Proceeding; Certificate of Service (Appellant Pro Per)
57. 22-Jan-2016 FILED: Reporter's Transcript - 02/12/2013 - Temporary Orders Hearing (Karen Bolton) (Appellant Pro Per)
58. 22-Jan-2016 FILED: Notice of Filing and Serving Transcript of 03/27/2013 Proceeding; Certificate of Service (Appellant Pro Per)
59. 22-Jan-2016 FILED: Reporter's Transcript - 03/27/2013 - Status Conference (Karen Bolton) (Appellant Pro Per)
60. 22-Jan-2016 FILED: Notice of Filing and Serving Transcript of 08/15/2013 Proceeding; Certificate of Service (Appellant Pro Per)
61. 22-Jan-2016 FILED: Reporter's Transcript - 08/15/2013 - Hearing (Karen Bolton) (Appellant Pro Per)
62. 22-Jan-2016 FILED: Certificate of Service (re: Notice of Filing and Serving Transcript of the 05/29/2013 Proceeding); Certificate of Service (re: Notice of Filing and Serving Transcript of the 05/29/2013 Proceeding) (duplicate) (Appellant Pro Per)
63. 22-Jan-2016 FILED: Reporter's Transcript - 05/29/2013 - Telephonic Status Conference (Karen Bolton) (Appellant)
64. 23-Jan-2016 FILED: Reporter's Transcript - 05/02/2013 - Status Conference (Karen Bolton)
65. 23-Jan-2016 FILED: Reporter's Transcript - 05/10/2013 - Emergency Evidentiary Hearing (Karen Bolton)
66. 25-Jan-2016 FILED: Appellant's Opening Brief; Certification of Service; Certification of Service (duplicate) (Appellant Pro Per) (stricken per order filed 2/24/16 - rsl)
67. 25-Jan-2016 FILED: Affidavit of Service (of Paralegal Maria Martinez) dated 8/17/15; Certificate of Service (of Notice of Filing Proof of Service of Items Filed Proceeding on All Counsel/parties of Record by TurboCourt); Proof of Service by Unites States Postal Service (Appellant Pro Per)

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68. 25-Jan-2016 FILED: Proof of Service; Certificate of Service (of Notice of Filing Proof of Service of Items Filed Proceeding on All Counsel/parties of Record by TurboCourt); Service by Email through Turbo Court dated 10/12/15 (Appellant Pro Per)
69. 25-Jan-2016 FILED: Notice of Filing and Serving Transcript of 05/30/2014 Proceeding; Certificate of Service (re: Notice of Filing and Serving Transcript of 05/30/2014 Proceeding) (Appellant Pro Per)
70. 26-Jan-2016 FILED: Appellant's Opening Brief (duplicate); Certificate of Compliance; Certification of Service (duplicate) (Appellant Pro Per) (stricken per order filed 2/24/16 - rsl)
71. 27-Jan-2016 FILED: Motion to Accept Opening Brief; Certificate of Service (Appellant Pro Per)
72. 27-Jan-2016 FILED: Motion to Strike Opening Brief and Dismiss Appeal; Certificate of Service (Appellee)
73. 27-Jan-2016 FILED: Appellant's Opening Brief; Certification of Service; Certification of Service (duplicate) (Appellant Pro Per) (stricken per order filed 2/24/16 - rsl)
74. 5-Feb-2016 FILED: Notice of Filing Proof of Service of Items Filed; Certificate of Service (Appellant Pro Per)
75. 8-Feb-2016 FILED: Notice of Filing and Serving Transcript of 10/10/2014 Transcript (Appellant Pro Per)
76. 8-Feb-2016 FILED: Reporter's Transcript – 10/10/2014 - Deposition of Eric DeMario (Lorraine Milligan) (Appellant Pro Per)
77. 10-Feb-2016 FILED: Response to Motion to Strike and Dismiss & Request for Judicial Notice (Appellant Pro Per)
78. 11-Feb-2016 FILED: Notice of E-Service of 2/10/2016 Filing Due to Undeliverable USPS Mail; Certificate of Service; Exhibits - USPS Tracking and Receipts; Exhibit - Responses to Motion to Strike and Dismiss & Request for Judicial Notice filed 2/10/16 (Appellant Pro Per)
79. 16-Feb-2016 FILED: Notice of Updated Address; Certificate of Service (Appellee)
80. 24-Feb-2016 ORDERED: Motion to Accept Opening Brief (Appellant Pro Per) = DENIED and striking opening brief filed 1/27/16. FURTHER ORDERED: granting motion to strike and striking opening brief filed on 1/25/16 and duplicate of that brief filed on 1/26/16. FURTHER ORDERED: Granting appellant to/including 3/4/16 to file a brief that complies w/ Arizona Rules of Civil Procedure. If appellant fails to timely file a compliant brief, court shall dismiss appeal. FURTHER ORDERED: denying motion to dismiss. Barbara Vidal Vaught ProTem Judge - Author
81. 4-Mar-2016 FILED: Notice of Motion to Withdraw Judicial Notice Filed 02/10/16; Certificate of Service (Appellant)
82. 4-Mar-2016 FILED: Appellant's Opening Brief (Appellant Pro Per)
83. 10-Mar-2016 ORDERED: dismissing this appeal. Barbara Vidal Vaught ProTem Judge - Author (vacated per order filed on 3/10/16 - rsl)
84. 10-Mar-2016 ORDERED: vacating 3/10/16 order dismissing this appeal. FURTHER ORDERED: Court will take no action on request for judicial notice. Barbara Vidal Vaught ProTem Judge - Author
85. 17-Mar-2016 FILED: Motion to Strike and Motion to Dismiss; Certificate of Service (Appellee)
86. 19-Mar-2016 FILED: Response to Motion to Strike dated 03/17/16; Certificate of Service (Appellant)
87. 4-Apr-2016 FILED: Response to Motion to Dismiss Dated 3/17/2016; Certificate of Service; Death Notices (Appellant)
88. 4-Apr-2016 FILED: Notice of Errata; Certificate of Service (Appellant)
89. 6-Apr-2016 FILED: Reporter's Transcript - 11/09/2012 - Hearing - (Christine M Coaly)
90. 6-Apr-2016 FILED: Notice of Filing and Serving Transcript of 5/29/13 Proceeding (Appellant Pro Per)
91. 12-Apr-2016 FILED: Motion for Extension of Time to Submit Responding Brief or Alternatively Request for Ruling on Motion to Strike and Motion to Dismiss; Certificate of Service (Appellee)
92. 13-Apr-2016 ORDERED: Motion to Strike and Motion to Dismiss (Appellee) = DENIED. FURTHER ORDERED: Denying appellee's request for an award of his attorneys' fees incurred in preparing motion to strike and motion to dismiss. FURTHER ORDERED: extending deadline for appellee to file answering brief to/including 5/31/16. Hon Diane M Johnsen - Author
93. 18-May-2016 FILED: Notice of Filing Motion for Clarification; Certificate of Service; Copy of Motion for Clarification (Appellant)
94. 31-May-2016 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)

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95. 10-Jun-2016 FILED: Notice of Filing Response to Respondents Motion to Dismiss Motion for Clarification; Certificate of Service; Copy of Petitioner's Response to Motion to Dismiss Motion for Clarification; Copy of Respondent's Motion to Dismiss Motion for Clarification (Appellant)
96. 22-Jun-2016 FILED: Motion to Request an Order to the Superior Court or Alternatively Extend Time for Filing Reply Brief; Certificate of Service; Request for Ruling filed by Appellee (Appellant)
97. 27-Jun-2016 ORDERED: Motion to Request an Order to the Superior Court or Alternatively Extend Time for Filing Reply Brief (Appellant) = GRANTED in part. Reply Brief due date EXTENDED from Monday, 06-27-2016 to Monday, 07-18-2016. Melina Brill ProTem Judge - Author
98. 14-Jul-2016 FILED: Motion to Extend Time for Filing Reply Brief; Certificate of Service (Appellant)
99. 15-Jul-2016 FILED: Notice of Filing Motion for Summary and Declaratory Judgement; Certificate of Service; Motion for Summary and Declaratory Judgement; Attachments with the Motion for Summary and Declaratory Judgement filed in Superior Court (Appellant)
100. 15-Jul-2016 FILED: Notice of Filing Motion to Compel; Certificate of Service; Motion to Compel filed with Superior Court (Appellant)
101. 18-Jul-2016 ORDERED: Motion to Extend Time for Filing Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 07-18-2016 to Monday, 08-08-2016. Melina Brill ProTem Judge - Author
102. 5-Aug-2016 FILED: Motion to Extend Time for Filing Reply Brief; Certificate of Service (Appellant)
103. 8-Aug-2016 ORDERED: Motion to Extend Time for Filing Reply Brief (Appellant) = DENIED. FURTHER ORDERED: reply brief due 08/18/2016. If reply brief is not filed on/before 08/18/2016, court shall submit this appeal for decision. Barbara Vidal Vaught ProTem Judge - Author
104. 17-Aug-2016 FILED: Motion for Reconsideration to Extend Time for Filing Reply Brief or Alternative; Certificate of service; Attachments A-E (Appellant)
105. 18-Aug-2016 ORDERED: Motion for Reconsideration to Extend Time for Filing Reply Brief or Alternative (Appellant) = DENIED. Hon Andrew W Gould - Author
106. 3-Oct-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
107. 4-Oct-2016 FILED: Request for Leave of Court and Accelerated Ruling on Entire Appeal; Certificate of Service (Appellant)
108. 5-Oct-2016 ORDERED: to the extent appellant requests an accelerated ruling on the motion, it is denied. The court will rule on the motion (Request for Leave of Court and Accelerated Ruling on Entire Appeal) following expiration of the time for a response and, if applicable, a reply. Melina Brill ProTem Judge - Author
109. 13-Oct-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
110. 13-Oct-2016 FILED: Additional Record on Appeal:  
Exhibits: HD 08/24/2012 - LIST # 2 6 in Manila Envelope; HD 02/12/2013 - LIST # 1 2 3 4 8 9 10 15 in Manila Envelope; HD 05/10/2013 - LIST # 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 in Manila Envelope; HD 01/14/2015 - LIST # 10 14 15 22 25 36 40 67 70 74 83 95 96 97 98 103 105 110 118 121 125 127 129 135 136 139 150 152 158 160 163 169 170 171 in a Manila Envelope
111. 20-Oct-2016 FILED: Response to Request for Leave of the Court and Accelerated Ruling; Certificate of Service (Appellee)
112. 28-Oct-2016 CLNDR: CONFERENCE, Department C, 12-7-16, COURTROOM 1.
113. 1-Nov-2016 FILED: Response to Appellee's Response to Request for Leave of the Court and Accelerated Ruling; Certificate of Service; Attachment A - Attachment E (Appellant Pro Per)
114. 3-Nov-2016 ORDERED: denying appellant's request to file a reply brief. FURTHER ORDERED: denying appellant's request to accelerate the appeal. FURTHER ORDERED: affirming this court's 06/27/2016 order that provides the superior court "retains jurisdiction to act so long as that act cannot negate the decision in a pending appeal or frustrate the appeal process." Hon Diane M Johnsen - Author