Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0474 IMH et al. v. MANIATIS

Appellate Case Information

Case Filed: 17-Jul-2015

Case Closed:

Dept/Composition

Department D

Hon. Andrew W Gould
Hon. Peter B Swann
Hon. Patricia A Orozco

Consolidated with: 1 CA-CV 13-0131 | 1 CA-CV 14-0432 | 1 CA-CV 15-0182 | 1 CA-CV 15-0413 | 1 CA-CV 15-0475 | 1 CA-CV 15-0514 | 1 CA-CV 15-0615

Side 1. IMH SPECIAL ASSET NT 168, LLC, an Arizona limited liability company; IMH SPECIAL ASSET NT 161, LLC, an Arizona limited liability company, Plaintiff/Appellee

(Litigant Group) IMH SPECIAL ASSET NT 168 et al.

- **IMH Special Asset NT 168 LLC**
- **IMH Special Asset NT 161 LLC**

Attorneys for: Plaintiffs/Appellees

Christopher H Bayley, Esq. (AZ Bar No. 10764)

Benjamin W Reeves, Esq. (AZ Bar No. 25708)

Side 2. MCA FINANCIAL GROUP, LTD., Court Appointed Receiver, by and through KEITH BIERMAN, Appellee

(Litigant Group) MCA FINANCIAL GROUP/KEITH BIERMAN

- **MCA Financial Group LTD**
- **Keith Bierman**

Attorneys for: Receiver/Appellees

Richard M Amoroso, Esq. (AZ Bar No. 10756)

Christina W Kelly, Esq. (AZ Bar No. 19371)

Side 3. REAVES LAW GROUP, by and through DAVID REAVES, Court Appointed Receiver, Appellee

(Litigant Group) REAVES LAW GROUP/DAVID REAVES

- **Reaves Law Group**
- **David M Reaves**
  AZ Bar No. 11677
  [Current Member]
  Admitted 10/24/87

Attorneys for: Receivers/Appellees

David M Reaves, Esq. (AZ Bar No. 11677)

Side 4. DAVID P. MANIATIS, individually, and as beneficiary of the David Maniatis IRA, and as beneficiary of the Eugenia Hoof IRA, Defendant/Appellant

(Litigant Group) DAVID P. MANIATIS

- **David P Maniatis**
  AZ Bar No. 5913
  [Suspended]
  SOLE PRACTIONER
  Admitted 10/13/79

Attorneys for: Defendant/Appellant

Ronald E Warnicke, Esq. (AZ Bar No. 1791)

CASE STATUS

Dec 27, 2016....Decision Rendered

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2010-010943	Deficiency and Breach of Guaranty		Katherine M Cooper, Authoring Judge of Order		
MAR	CV2010-010990					

2 OPEN DUE DATES

Motion for Reconsideration due **Due By:** Wednesday, January 11, 2017

Re: MEMORANDUM DECISION (Vacated in Part, Remanded in Part, Dismissed in Part) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur

Petition for Review to ASC due **Due By:** Thursday, January 26, 2017

Re: MEMORANDUM DECISION (Vacated in Part, Remanded in Part, Dismissed in Part) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur

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

Court of Appeals, Division One

Civil Appeal

1 CA-CV 15-0474 IMH et al. v. MANIATIS

CASE DECISION

27-Dec-2016 MEMORANDUM DECISION

Peter Swann.....Author
Andrew Gould.....Concur
Patricia Orozco.....Concur

Filed: **27-Dec-2016** Mandate:

Decision Disposition
Vacated in Part
Remanded in Part
Dismissed in Part

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)	
1 CA-CV 13-0131	IMH et al. v. APERION et al.
1 CA-CV 14-0432	IMH et al. v. ELADIO et al.
1 CA-CV 15-0182	IMH et al. v. MANIATIS et al.
1 CA-CV 15-0413	ELADIO et al. v. MCA
1 CA-CV 15-0475	MANIATIS v. MCA et al.
1 CA-CV 15-0514	IMH et al. v. ELADIO et al.
1 CA-CV 15-0615	IMH et al. v. MANIATIS

49 PROCEEDING ENTRIES

1.	17-Jul-2015	FILED: Index of Record, Notice of Appeal (of 5/26/15 Order and June 17, 2015 Order) from Maricopa County Superior Court filed 06/19/15
2.	17-Jul-2015	FILED: e-Record on Appeal (CV2010-010943): Instruments/Minute Entries Exhibits - not sent at this time
3.	23-Jul-2015	FILED: e-Record on Appeal (CV2010-010990): Instruments/Minute Entries
4.	28-Jul-2015	FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
5.	30-Jul-2015	FILED: Appellees' Motion to Consolidate Appeal No. 1 CA-CV 15-0474 with Appeal No. 1 CA-CV 13-0131; Certificate of Mailing (Appellees IMH)
6.	3-Aug-2015	RECEIPT No.: 2015-01069 ; $140.00, Authorization: 15003715598, Applied to: IMH SPECIAL ASSET NT 168 et al. - Class B Filing Fee ($140.00) Paid for: Snell & Wilmer LLP - By Integrated Resource Systems IN
7.	10-Aug-2015	FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellant)
8.	13-Aug-2015	RECEIPT No.: 2015-01122 ; $280.00, Authorization: #24021960049, Applied to: DAVID P. MANIATIS - Class A Filing Fee ($280.00) Paid for: Ronald E Warnicke - By Integrated Resource Systems IN
9.	17-Aug-2015	FILED: Appellee's Notice re: MCA'S and Reaves Appellee's Fees Due/Appellant's Brief Due
10.	17-Aug-2015	FILED: Certificate of Service (Case Management Statement) (Appellant)
11.	19-Aug-2015	FILED: Notice of Payment of Filing Fee by David M Reaves, as receiver (Appellee)
12.	24-Aug-2015	RECEIPT No.: 2015-01172 ; $140.00, Authorization: #36008500352, Applied to: REAVES LAW GROUP/DAVID REAVES - Class B Filing Fee ($140.00) Paid for: Reaves Law Group - By Integrated Resource Systems IN
13.	24-Aug-2015	FILED: Notice of No Objection to Appellees' Motion to Consolidate Appeal No. 1 CA-CV 15-0474 with Appeal No. 1 CA-CV 13-0131; Certificate of Mailing (Appellee IMH Special)
14.	1-Sep-2015	ORDERED: granting motions to consolidate and consolidating cases 1 CA-CV 15-0413, 1 CA-CV-15-0474 and 1 CA-CV-0514 with 1 CA-CV 13-0131. Case No. 1 CA-CV 13-0131 is designated primary number. FURTHER ORDERED: granting motion for an extension of time for filing opening brief and vacating 8/31/15, 9/28/15, and 10/13/15 due dates for opening briefs. Order ruling pending motion to dismiss will set a due date for filing opening briefs, if motion to dismiss is denied. Melina Brill ProTem Judge - Author
15.	2-Sep-2015	FILED: Case Management Statement for CV-15-0514 (Appellant)

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49 PROCEEDING ENTRIES

16.	10-Sep-2015	FILED: Returned US Mail, Order re: Consolidating Appeals, etc., dated 9/1/15, addressed to Eladio Properties/Aperion Communities, Return to Sender - Undeliverable
17.	16-Nov-2015	ORDERED: granting motions to consolidate and consolidating cases 1 CA-CV 15-0475 and 1 CA-CV 15-0615 with 1 CA-CV 13-0131. Case No. 1 CA-CV 13-0131 is designated primary number. FURTHER ORDERED: Opening brief filed in 1 CA-CV 15-0475 shall also apply to appeal 1 CA-CV 15-0615. FURTHER ORDERED: Granting motion to stay briefing. Order ruling on pending motion to dismiss will address briefing schedule, if motion to dismiss is denied. Melina Brill ProTem Judge - Author
18.	24-Nov-2015	FILED: Returned US Mail, Order filed 11/16/15, addressed to Aperion Communities LLLP, Insufficient Address - Unable to Forward
19.	25-Nov-2015	ORDERED: Appellees' Motion to Dismiss Appeals = GRANTED IN PART and dismissing portion of appeal 1 CA-CV 14-0432. FURTHER ORDERED: dismissing appeals 1 CA-CV 14-0833, 1 CA-CV 14-0860, 1 CA-CV 14-0861, 1 CA-CV 15-0079, and 1 CA-CV 15-0081. FURTHER ORDERED: denying remainder of motion to dismiss appeals. FURTHER ORDERED: amending caption in this appeal as shown on this order. FURTHER ORDERED: court will consider appeal 1 CA-CV 13-0131 before remaining appeals. FURTHER ORDERED: opening brief(s) in appeal 1 CA-CV 13-0131 due on/before 1/22/2016. FURTHER ORDERED: staying briefing in the remaining appeals pending further order of this court. Hon Andrew W Gould - Author
20.	17-Dec-2015	FILED: Notice of Withdrawal of Counsel for Party in Interest/Appellant MW2 Investments, LLC; Certificate of Service (Appellant)
21.	31-Dec-2015	FILED: Motion to Withdraw as Attorney of Record; Certificate of Service; Court of Appeals - Order re Motion to Withdraw (Appellee)
22.	14-Jan-2016	FILED: Motion to Extend Time to File Opening Brief; Certificate of Service (Appellant)
23.	19-Jan-2016	ORDERED: Motion to Extend Time to File Opening Brief (Appellant) = GRANTED (all opening briefs). Due date EXTENDED from Friday, 01-22-2016 to Friday, 02-19-2016 Melina Brill ProTem Judge - Author
24.	25-Jan-2016	ORDERED: Motion to Withdraw as Attorney of Record (Attorney Jeffrey J Goulder) (Appellees IMH Special Asset NT 168, et al.) = GRANTED. Barbara Vidal Vaught ProTem Judge - Author
25.	4-Feb-2016	FILED: Returned US Mail, Order re: Extension of Time dated 2/4/16, addressed to Aperion Communities, Return to Sender - Undeliverable
26.	19-Feb-2016	FILED: Appendix to Opening Brief; Exhibit 1; Exhibit 2; Exhibits 3 - 6 (Appellants Eladio, et al.)
27.	19-Feb-2016	FILED: Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Eladio, et al.)
28.	19-Feb-2016	FILED: Motion to Extend Word Limitation for Opening Brief; Certificate of Service (Appellant)
29.	23-Feb-2016	ORDERED: Motion to Extend Word Limitation for Opening Brief (Appellant) = GRANTED and accepting opening brief filed on 2/19/16. FURTHER ORDERED: granting appellees leave to file an answering brief not to exceed 16,300 words. Hon Michael J Brown - Author
30.	4-Apr-2016	FILED: Answering Brief of Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC; Certificate of Compliance; Certificate of Service
31.	4-Apr-2016	FILED: Answering Brief of Receiver/Appellee David M Reaves; Certificate of Compliance; Certificate of Service
32.	4-Apr-2016	FILED: Appellee's Appendix Volume 1 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
33.	4-Apr-2016	FILED: Appellee's Appendix Volume 2 (Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC)
34.	21-Apr-2016	FILED: Motion to Extend Time to file Reply Brief; Certificate of Service (Appellant)
35.	25-Apr-2016	ORDERED: Motion to Extend Time to file Reply Brief; (Appellant) = GRANTED for all reply briefs. Due date EXTENDED from Monday, 05-02-2016 to Monday, 05-23-2016. Melina Brill ProTem Judge - Author
36.	27-Apr-2016	FILED: Motion to Strike Answering Brief of Reciver David M. Reaves; Certificate of Service (Appellant)(Duplicate)
37.	9-May-2016	FILED: Appellees IMH Special Asset NT 161, LLC and IMH Special Asset NT 168, LLC Response to Motion to Strike Answering Brief of David M. Reaves; Certificate of Service (Appellee)

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49 PROCEEDING ENTRIES

38.	9-May-2016	FILED: Receiver/Appellee David M. Reaves Response and Opposition to Motion to Strike Answering Brief of David M. Reaves; Certificate of Service (Appellee)
39.	12-May-2016	FILED: Returned US Mail, Order RE: Extension of Time - Reply Briefs dated 04/25/2016, addressed to Aperian Communities LLLP, Undeliverable
40.	23-May-2016	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant Maniati)
41.	31-May-2016	ORDERED: Motion to Strike Answering Brief of Receiver David M. Reaves (Appellant) = DENIED. Hon Andrew W Gould - Author
42.	7-Jun-2016	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
43.	8-Jun-2016	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellants Eladio)
44.	17-Jun-2016	FILED: Additional Record on Appeal Exhibits: HD 10/12/12 - LIST# 1 6 7 9 10 14 16 18 19 20 21 22 23 24 34 in a manila envelope; HD 9/18/13 - LIST# 12 13 17 23 24 27 28 31 35 36 40 42 43 44 45 60 in a manila envelope; HD 9/19/13 - LIST# 1 2 in manila envelope; HD 11/14/13 - LIST# 1 3 5 7 14 15 in a manila envelope; HD 1/15/14 - LIST# 1 3 4 7 9 13 15 16 17 18 20 21 41 42 43 44 46 52 53 72 73 81 99 104 in a manila envelope; HD 6/3/14 - LIST# 5 6 13 14 16 17 18 19 21 23 25 27 in manila envelope; HD 10/23/15 - LIST# 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 in manila envelope
45.	23-Jun-2016	FILED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee)
46.	7-Jul-2016	CLNDR: CONFERENCE, Department D, 9-28-16, COURTROOM 2.
47.	15-Jul-2016	ORDERED: Joint Motion to Strike David P. Maniatis' Second Reply; Certificate of Mailing (Appellee) = DENIED. Hon Andrew W Gould - Author
48.	27-Dec-2016	MEMORANDUM DECISION (Vacated in Part, Remanded in Part, Dismissed in Part) Hon Peter B Swann - Author; Hon Andrew W Gould - Concur; Hon Patricia A Orozco - Concur
49.	27-Dec-2016	FILED: Memorandum Decision Distribution List

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