

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 15-0689**

**ANGELO et al. v. STEWART**

**Appellate Case Information**

Case Filed: 16-Oct-2015  
Case Closed:

**Dept/Composition**

**Department C**  
Hon. Diane M Johnsen  
Hon. Jon W Thompson  
Hon. Michael J Brown

**Side 1. ROBERT ANGELO, et al., Plaintiff/Appellant**  
(Litigant Group) ROBERT ANGELO et al.

- Robert Angelo
- Don Davis
- Lucien Riley

**Co-Counsel for: Plaintiffs/Appellants**  
Mark A Holmgren, Esq. (AZ Bar No. 19132)  
Armistead W Gilliam, Esq. (AZ Bar No. 30470)

**Side 2. STEWART TITLE & TRUST OF PHOENIX, INC., Defendant/Appellee**  
(Litigant Group) STEWART TITLE & TRUST OF PHOENIX INC

- Stewart Title & Trust of Phoenix Inc

**Co-Counsel for: Defendant/Appellee**  
Jake D Curtis, Esq. (AZ Bar No. 19726)  
Edwin D Fleming, Esq. (AZ Bar No. 9685)  
Kevin Fee, Esq. (AZ Bar No. KevinFee)  
Daniel C Craig, Esq. (AZ Bar No. DanielCraig)  
Gerald Kelly, Esq. (AZ Bar No. GeraldKelly)

**CASE STATUS**

Jan 31, 2017....Decision Rendered

| PREDECESSOR CASE(S)  | Cause/Charge/Class  | Judgment/Sentence | Judge, Role <Comments>                      | Trial | Dispo |
|----------------------|---|-------------------|---|-------|-------|
| YAV V1300CV201380021 | Breach of Contract;<br>Breach of Trust; Breach of<br>Fiduciary Duty [see record<br>for complete list] |                   | David L Mackey, Authoring<br>Judge of Order |       |       |

**2 OPEN DUE DATES**

**Motion for Reconsideration due** **Due By:** Wednesday, February 15, 2017  
*Re: MEMORANDUM DECISION (Affirmed) Hon Jon W Thompson - Author; Hon Diane M Johnsen - Concur; Hon Michael J Brown - Concur*

**Petition for Review to ASC due** **Due By:** Thursday, March 2, 2017  
*Re: MEMORANDUM DECISION (Affirmed) Hon Jon W Thompson - Author; Hon Diane M Johnsen - Concur; Hon Michael J Brown - Concur*

**2 CASE DECISIONS**

**28-Jul-2016 OPINION**

|                          |                           |          |
|--------------------------|---------------------------|----------|
| Samuel Thumma.....Author | Filed: <b>28-Jul-2016</b> | Mandate: |
| Kent Cattani.....Concur  | Decision Disposition      |          |
| Randall Howe.....Concur  | <b>Appeal Reinstated</b>  |          |

**31-Jan-2017 MEMORANDUM DECISION**

|                          |                           |          |
|--------------------------|---------------------------|----------|
| Jon Thompson.....Author  | Filed: <b>31-Jan-2017</b> | Mandate: |
| Diane Johnsen.....Concur | Decision Disposition      |          |
| Michael Brown.....Concur | <b>Affirmed</b>           |          |

**44 PROCEEDING ENTRIES**

1. 16-Oct-2015 FILED: Index of Record, Notice of Appeal from Yavapai County Superior Court filed 09/23/15

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2. 16-Oct-2015 FILED: e-Record on Appeal: Instruments/Minute Entries
3. 21-Oct-2015 FILED: Notice to Parties re: Appellant's Fee/Case Management Statement/Brief Due
4. 4-Nov-2015 RECEIPT No.: 2015-01531 ; \$280.00, Check Number: #92120, Applied to: ROBERT ANGELO et al. - Class A Filing Fee (\$280.00) Paid for: - By Carpenter Hazlewood Delgado & Bolen
5. 6-Nov-2015 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
6. 10-Nov-2015 FILED: Case Management Statement; Order: Denying Application for Class Certification filed 8/25/15 (Appellant)
7. 16-Nov-2015 RECEIPT No.: 2015-01592 ; \$280.00, Authorization: #20011916837, Applied to: ROBERT ANGELO et al. - Overpayment Class A (\$280.00) Paid for: Carpenter Hazlewood Delgado & Bolen PLC - By Integrated Resource Systems IN
8. 16-Nov-2015 RECEIPT No.: 2015-01593 ; \$280.00, Authorization: #20011916837, Applied to: ROBERT ANGELO et al. - Overpayment Class A (\$280.00) Paid for: Carpenter Hazlewood Delgado & Bolen PLC - By Integrated Resource Systems IN (Memo: Overpayment x-ref 2015-01531, x-ref 2015-01592)
9. 16-Nov-2015 VOID RECEIPT No.: 2015-01592 - \$-280.00, Authorization: #20011916837, - Applied to: ROBERT ANGELO et al. - Overpayment Class A (\$-280.00) Paid for: Carpenter Hazlewood Delgado & Bolen PLC - By: Integrated Resource Systems IN VOID Reason: x-ref 2015-01593 no comment refund due. alc
10. 20-Nov-2015 RECEIPT No.: 2015-01630 ; \$140.00, Check Number: 81438, Applied to: STEWART TITLE & TRUST OF PHOENIX INC - Class B Filing Fee (\$140.00) Paid for: Burch & Cracchiolo PA - By Burch & Cracchiolo PA
11. 17-Dec-2015 FILED: Letter, 12/17/15, from Court to Appellant, returning duplicate filing fee
12. 21-Dec-2015 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service; Exhibit 1 through Exhibit 8 (Appendix of Exhibits to Opening Brief)
13. 24-Dec-2015 RECEIPT No.: 2015-01771 ; \$280.00, Authorization: 57016548433, Applied to: ROBERT ANGELO et al. - Overpayment Class A (\$280.00) Paid for: Carpenter Hazlewood Delgado & Bolen PLC - By Integrated Resource Systems IN (Memo: Duplicate Pmt - See Rcpt 2015-01531 - Refund Needed)
14. 28-Jan-2016 FILED: Letter, 1/28/16, Court to Carpenter Hazelwood Delgado & Bolen PLC re: Refund of monies submitted in error
15. 8-Feb-2016 FILED: Answering Brief of Defendant/Appellee Stewart Title & Trust of Phoenix, Inc.; Certificate of Compliance; Certificate of Service (Appellee)
16. 8-Feb-2016 FILED: Appendix of Defendant/Appellee Stewart Title & Trust of Phoenix, Inc. (Appellee)
17. 7-Mar-2016 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
18. 7-Mar-2016 FILED: Courtesy copy of Appellant's Reply Brief
19. 8-Mar-2016 FILED: Courtesy copy of Appellant's Opening Brief
20. 31-Mar-2016 ORDERED: consolidating cases 1 CA-CV 15-0047, 1 CA-CV 15-0107, 1 CA-CV 15-0127, 1 CA-CV 15-0249, 1 CA-CV 15-375, 1 CA-CV-15-0508, 1 CA-CV 15-0513, 1 CA-CV 15-0624, 1 CA-CV 15-0689, 1 CA-CV 15-0728, 1 CA-CV 15-0753, 1 CA-CV 16-0002 and 1 CA-CV 16-0042 for a limited purpose of considering this court's appellate jurisdiction in these cases. Case No 1 CA-CV 15-0047 is designated as primary number and above caption (or a shortened version listing at a minimum captions in Case No. 1 CA-CV 15-0047 and case number(s) in which filer is a party) shall be used on all future documents filed. FURTHER ORDERED: Directing any party to this consolidated appeal wishing to be heard on issue of whether order being appeal from in their specific case(s) must contain Rule 54 (c) language may file a memorandum, not to exceed 10 pages, on/before 4/20/16. No responses to memoranda will be permitted. Court will only accept a memorandum addressing this issue if filing party has paid filing fee in case number(s) in which filer is a party. FURTHER ORDERED: Staying all other aspects of this consolidated appeal that do not relate to Rule 54 (c) issue pending further order. Hon Kent E Cattani Judge - Author
21. 11-Apr-2016 FILED: Appellees' Reply in Support of Motion to Supplement the Record on Appeal; Certificate of Filing and Service Regarding Appellees' Reply in Support of Motion to Supplement the Record on Appeal (Appellees re 1 CA-CV 15-0107)
22. 20-Apr-2016 FILED: Appellants' Memorandum Regarding Rule 54 (c) Language; Certificate of Service (Appellants Angelo, et al. - CV-15-0689)
23. 3-May-2016 ORDERED: any response to motion to strike (surreply in CV-15-0728) must be filed on/before 5/13/16. Appellant may file a reply in accordance with ARCAP 6 (a) (2). FURTHER ORDERED: Court will rule on motion following expiration of time for a response and, if applicable, a reply. Melina Brill ProTem Judge - Author

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24. 11-May-2016 FILED: Appellee's Response to Appellants Motion to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)
25. 26-May-2016 ORDERED: Consolidating case 1 CA-CV 15-0276 with previously consolidated case 1 CA-CV 15-0047 for sole purpose of considering Court's appellate jurisdiction. Case No. 1 CA-CV 15-0047 is designated primary number. FURTHER ORDERED: Removing case 1 CA-CV 16-0002 from this consolidated appeal. FURTHER ORDERED continuing stay of this consolidated appeal until further order. FURTHER ORDERED: Any party in 1 CA-CV 15-0276 that wishes to be heard on issue of order being appealed from is required to contain Rule 54(c) language may file a memorandum on/before 06/06/2016. Hon Kent E Cattani Judge - Author
26. 27-May-2016 FILED: Appellants Reply to Appellees Response to Strike Appellees Surreply to Appellants Rebuttal to Appellees Answer Brief (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
27. 2-Jun-2016 FILED: Motion by Tri-Rentals, Inc. and Classic Party Rentals, Inc. to Remove Their Appeal from Consolidation and Lift Stay; Certificate of Service; Exhibit A (Appellants re 1 CA-CV 16-0042)
28. 6-Jun-2016 FILED: Plaintiff's Response in Support of Motion by Tri-Rentals, Inc. and Class Party Rentals, Inc. to Remove Thier Appeal from Consolidation and Lift Stay; Certificate of Service (Appellee re 1 CA-CV 16-0042)
29. 7-Jun-2016 ORDERED: Removing CV 15-0276 from consolidated appeal. Hon Kent E Cattani Judge - Author
30. 7-Jun-2016 ORDERED: Removing CV 16-0042 from consolidated appeal. Hon Kent E Cattani Judge - Author
31. 10-Jun-2016 FILED: Appellee's Motion to Strike; Proof of Service (Appellee, Erlick re 1 CA-CV 15-0728)
32. 17-Jun-2016 FILED: Motion for Reconsideration Concerning Appellants Motion to Strike Appellees Surreply (Appellant Pro Per, Davis re 1 CA-CV 15-0728)
33. 22-Jun-2016 ORDERED: Consolidating case 1 CA-CV 16-0294 with case 1 CA-CV 15-0047 for sole purpose of considering this court's appellate jurisdiction. Case 1 CA-CV 15-0047 is designated the primary number. FURTHER ORDERED: Continuing stay of this consolidated appeal until further order. FURTHER ORDERED: Any party in case 1 CA-CV 16-0294 that wishes to be heard on issue regarding order containing Rule 54(c) language, memorandum due 07/05/2016. Hon Kent E Cattani Judge - Author
34. 27-Jun-2016 FILED: Motion for Appointment of Counsel (Appellant Pro Per)
35. 29-Jun-2016 FILED: Appellee's Response to Notice to the Court that Appellee Will Consider Appellants Request for Sanctions as Part of Appellants Motion for Reconsideration and Will not Respond Unless Requested by the Court; Proof of Service (Appellee)
36. 29-Jun-2016 FILED: Appellee's Reply to Appellant's Response to Appellee's Motion to Strike; Proof of Service (Appellee)
37. 6-Jul-2016 ORDERED: Denying Erlick's motion to strike Davis's reply. FURTHER ORDERED: Denying Davis's motion for reconsideration. FURTHER ORDERED: Denying Erlick's motion to strike Lavoie's rebuttal because that pleading was not accepted for filing. FURTHER ORDERED: Taking no action on Erlick's response to Lavoie's motion for permissive joinder and motion to intervene. Hon Maurice Portley - Author
38. 11-Jul-2016 FILED: Courtesy Copy - Copy of my Medical Benefits for State of Calif Gov. Program (Debra Lavoie)
39. 28-Jul-2016 OPINION (Appeal Reinstated) Hon Samuel A Thumma - Author; Hon Kent E Cattani Judge - Concur; Hon Randall M Howe - Concur
40. 28-Jul-2016 FILED: Opinion Distribution List
41. 28-Jul-2016 ORDERED: deconsolidating this appeal from appeal 1 CA-CV 15-0047. FURTHER ORDERED: terminating stay and reinstating this appeal. FURTHER ORDERED: appeal shall be scheduled for consideration on the merits. Hon Kent E Cattani Judge - Author
42. 26-Sep-2016 CLNDR: CONFERENCE, Department C, 11-21-16, COURTROOM 1.
43. 31-Jan-2017 MEMORANDUM DECISION (Affirmed) Hon Jon W Thompson - Author; Hon Diane M Johnsen - Concur; Hon Michael J Brown - Concur
44. 31-Jan-2017 FILED: Memorandum Decision Distribution List