

Court of Appeals, Division One

Civil Appeal

1 CA-CV 16-0143

K HOVNANIAN et al v. BORDER et al.

Appellate Case Information

Case Filed: 18-Mar-2016

Case Closed:

Dept/Composition

Side 1. K. HOVNANIAN GREAT WESTERN BUILDING COMPANY, LLC, et al., Plaintiff/Appellant

(Litigant Group) K. HOVNANIAN GREAT WESTERN BUILDING CO et al.

- K Hovnanian Great Western Building Company LLC
- K Hovnanian Great Western Homes LLC

Attorneys for: Plaintiffs/Appellants

Dennis I Wilenchik, Esq. (AZ Bar No. 5350)

John D Wilenchik, Esq. (AZ Bar No. 29353)

David Timchak, Esq. (AZ Bar No. 32095)

Side 2. BORDER MASONRY WALL, INC, et al., Defendant/Appellee

(Litigant Group) BORDER MASONRY WALL INC

- Border Masonry Wall Inc

Attorneys for: Defendant/Appellee

Leonard T Fink, Esq. (AZ Bar No. 16489)

David S Schopick, Esq. (AZ Bar No. 22016)

(Litigant Group) LMC CONSTRUCTION INC

- LMC Construction Inc

Attorneys for: Defendant/Appellee LMC

Mitchell J Resnick, Esq. (AZ Bar No. 16718)

Emily K Dotson, Esq. (AZ Bar No. 29510)

(Litigant Group) TRINITY PLUMBING 2000 INC - dismissed per order filed 10/07/2016

- Trinity Plumbing 2000 Inc

(Litigant Group) SAMONS BROS FRAMING LLC - dismissed per order filed 08/29/2016

- Samons Bros Framing LLC

CASE STATUS

Dec 21, 2016....Stayed

Oct 24, 2016....At Issue

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2012-006003	Breach of Express Warranty; Breach of Implied Warranty; Breach of Contract [see file]		J Richard Gama, Authoring Judge of Order		
MAR CV2012-009546					

OPEN DUE DATE

Court Ordered Document due

Due By:

Monday, February 6, 2017

Border Masonry Wall, Inc. and appellants joint status report

[2 extensions]

Re: ORDERED: Joint Status Report = GRANTED. FURTHER ORDERED: directing appellee Border Masonry Wall, Inc. and appellants to file a joint status report on/before 11/30/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author

CALENDAR

Friday MOTION CALENDAR

16-Dec-2016 Department M;

File date: 11/30/2016.....* Defendant/Appellee Border Masonry Wall, Inc's Motion for Intervention (Appellee)

DECISION RENDERED: See proceeding entry for ORDER dated 21-Dec-2016 for more information...

60 PROCEEDING ENTRIES

1. 18-Mar-2016 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 02/19/16

Court of Appeals, Division One

Civil Appeal

1 CA-CV 16-0143

K HOVNANIAN et al v. BORDER et al.

60 PROCEEDING ENTRIES

2. 18-Mar-2016 FILED: e-Record on Appeal (CV2012-006003):
Instruments/Minute Entries
3. 18-Mar-2016 FILED: e-Record on Appeal (CV2012-009546):
Instruments/Minute Entries
4. 28-Mar-2016 FILED: Notice to Parties re: Appellants' Fee/Case Management Statement/Brief Due
5. 31-Mar-2016 FILED: Notice of Pending Motion; Certificate of Service (Appellant)
6. 1-Apr-2016 ORDERED: Notice of Pending Motion (Appellant) = GRANTED/staying this appeal and revesting jurisdiction in Maricopa Superior Court to consider pending motion for new trial. FURTHER ORDERED: Within 10 days after superior court rules on motion for new trial, appellants shall file a notice w/ this court w/ ruling attached. FURTHER ORDERED: If any party wishes ruling on motion to be reviewed in this appeal, that party must file a timely notice of appeal or amended notice of appeal. FURTHER ORDERED: Directing appellants to file written notice w/ this court of status of motion for new trial on/before 5/16/16. FURTHER ORDERED: Vacating 5/27/16 due date for opening brief. Court will set a due date for opening brief after superior court rules on motion for new trial. Barbara Vidal Vaught ProTem Judge - Author
7. 4-Apr-2016 RECEIPT No.: 2016-00404 ; \$280.00, Authorization: 95011710271, Applied to: K. HOVNANIAN GREAT WESTERN BUILDING CO et al. - Class A Filing Fee (\$280.00) Paid for: Wilenchik & Bartness PC - By Integrated Resource Systems IN
8. 3-May-2016 FILED: Notice of Denial of New Trial Motion and Request for Reinstatement of Appeal; Certificate of Service (Appellant)
9. 4-May-2016 ORDERED: Notice of Denial of New Trial Motion and Request for Reinstatement of Appeal; (Appellant) = DENIED. FURTHER ORDERED: Continuing stay of this appeal to/including 6/20/16, and revesting jurisdiction in Maricopa Superior Court to consider application by appellants for a signed order denying motion for new trial and for a signed order w/ certification of finality pursuant to Rule 54 (c) dismissing complaint. FURTHER ORDERED: If superior court grants application, appellants shall file a copy of signed order(s) w/ in 10 days after entry. FURTHER ORDERED: If superior court has not ruled on application on/before 6/20/16, appellants shall file a request to continue stay of appeal or appeal will be dismissed. FURTHER ORDERED: Court will set a due date for opening brief and case management statement after superior court rules on application. Melina Brill ProTem Judge - Author
10. 6-May-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record (including Amended Notice of Appeal filed 5/3/16; Unsigned Minute Entry filed 4/27/16 re: denying Plaintiff's Motion for New Trial)
11. 31-May-2016 FILED: Notice of Denial of New Trial Motion and Request for Reinstatement of Appeal; Certificate of Service (Appellant)
12. 2-Jun-2016 ORDERED: Notice of Denial of New Trial Motion and Request for Reinstatement of Appeal (Appellant) = GRANTED. FURTHER ORDERED: Case Management Statement due 06/13/2016. FURTHER ORDERED: Opening Brief due 07/12/2016. FURTHER ORDERED: Appellees' filing fees due 06/16/2016. Melina Brill ProTem Judge - Author
13. 7-Jun-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record (including Order Denying Plaintiff's Motion for New Trial filed 5/27/16; Amended Notice of Appeal filed 5/31/16)
14. 7-Jun-2016 FILED: Notice of Payment of Filing Fee By Defendant/Appellee; Certificate of Service (Appellee Trinity)
15. 8-Jun-2016 FILED: Notice of Settlement; Certificate of Service (Appellee)
16. 10-Jun-2016 RECEIPT No.: 2016-00712 ; \$140.00, Authorization: #61013164767, Applied to: TRINITY PLUMBING 2000 INC - Class B Filing Fee (\$140.00) Paid for: Perry Childers Hanlon & Hudson PLC - By Integrated Resource Systems IN
17. 10-Jun-2016 FILED: Notice of Payment of Filing by Defendant/Appellee LMC Construction, INC.; Untitled (Certificate of Service) (Appellee LMC)
18. 13-Jun-2016 RECEIPT No.: 2016-00721 ; \$140.00, Authorization: 65004454119, Applied to: SAMON BROS FRAMING llc - Class B Filing Fee (\$140.00) Paid for: Jones Skelton & Hochuli PLC - By Integrated Resource Systems IN
19. 13-Jun-2016 FILED: Case Management Statement (Appellants)
20. 13-Jun-2016 ORDERED: Directing appellee Samon Bros. Framing, LLC, and appellants to file a joint status report due 07/13/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
21. 15-Jun-2016 RECEIPT No.: 2016-00737 ; \$140.00, Authorization: #66020053830, Applied to: LMC CONSTRUCTION INC - Class B Filing Fee (\$140.00) Paid for: Resnick & Louis PC - By Integrated Resource Systems IN

Court of Appeals, Division One**Civil Appeal****1 CA-CV 16-0143****K HOVNANIAN et al v. BORDER et al.****60 PROCEEDING ENTRIES**

22. 16-Jun-2016 FILED: Notice of Payment of Filing Fee by Defendant/Appellee Border Masonry Wall, Inc.; Certificate of Service (Appellee Border)
23. 17-Jun-2016 FILED: Motion to Withdraw as Counsel of Record; Certificate of Service (Appellee Border Masonry Wall Inc)
24. 21-Jun-2016 RECEIPT No.: 2016-00763 ; \$140.00, Authorization: #72018123023, Applied to: BORDER MASONRY WALL INC - Class B Filing Fee (\$140.00) Paid for: Springel & Fink LLP - By Integrated Resource Systems IN
25. 22-Jun-2016 RECEIPT No.: 2016-00767 ; \$140.00, Authorization: #73019490971, Applied to: BORDER MASONRY WALL INC - Overpayment Class B (\$140.00) Paid for: Schneider & Onofry PC - By Integrated Resources System IN (Memo: Duplicate Pmt - See Rcpt 2016-00763 - Refund Needed)
26. 6-Jul-2016 FILED: Letter, dated 07/06/2016, from Court to Schneider & Onofry PC re: Refund of monies submitted in error
27. 11-Jul-2016 ORDERED: Motion to Withdraw as Counsel of Record (Appellee Border Masonry Wall Inc) = GRANTED. Melina Brill ProTem Judge - Author
28. 12-Jul-2016 FILED: Appellants' Opening Brief; Appellants' Certificate of Compliance; Appellants' Certificate of Service (Appellant)
29. 13-Jul-2016 FILED: Joint Status Report; Certificate of Service (Appellant)
30. 15-Jul-2016 ORDERED: Joint Status Report for appellee Samon Bros. Framing, LLC, and appellants due 08/11/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
31. 21-Jul-2016 FILED: Notice of Association of Counsel; Certificate of Service (Appellee)
32. 22-Jul-2016 FILED: Returned US Mail, Order re: Motion to Withdraw dated 07/11/2016, addressed to Brady Vorwerck Ryder & Caspino PC, Undeliverable - Return to Sender
33. 26-Jul-2016 FILED: Returned US Mail, Order re: Joint Status Report dated 07/15/2016, addressed to Brady Vorwerck Ryder & Caspino PC, Undeliverable - Return to Sender
34. 11-Aug-2016 FILED: Joint Status Report; Certificate of Service (Appellants)
35. 16-Aug-2016 FILED: Motion for Procedural Order to Extend Time; Certificate of Service (Appellee LMC Construction)
36. 16-Aug-2016 FILED: Affidavit (Appellee)
37. 17-Aug-2016 ORDERED: Motion for Procedural Order to Extend Time; Certificate of Service (Appellee) = GRANTED. Joint Answering Brief due date EXTENDED from Monday, 08-29-2016 to Wednesday, 09-28-2016; Joint Status Repoert due date EXTENDED from Thursday, 08-11-2016 to Thursday, 08-25-2016 (Joint Status Report: Samon Bros. Framing and Appellants). Melina Brill ProTem Judge - Author
38. 19-Aug-2016 FILED: Notice of Settlement; Certificate of Service (Appellant)
39. 22-Aug-2016 ORDERED: appellants and appellee Border Masonry Wall, Inc. shall file a joint status report on/before 09/16/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
40. 25-Aug-2016 FILED: Stipulation to Dismiss Defendant Samons Bros. Framing, LLC, ONLY, with Prejudice; Certificate of Service (Appellant)
41. 29-Aug-2016 ORDERED: Stipulation to Dismiss Defendant Samons Bros. Framing, LLC, ONLY, with Prejudice (Appellant) = GRANTED/dismissing appellee Samons Bros. Framing, LLC, from this appeal, party to bear own costs and attorneys' fees. Melina Brill ProTem Judge - Author
42. 8-Sep-2016 FILED: Notice of Settlement; Certificate of Service (Appellant)
43. 9-Sep-2016 ORDERED: directing appellants and appellee Trinity Plumbing 2000, Inc. to file a joint status report on/before 10/06/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
44. 16-Sep-2016 FILED: Joint Status Report; Certificate of Service (Appellant)
45. 19-Sep-2016 ORDERED: Joint Status Report (extension of time) = GRANTED. FURTHER ORDERED: directing appellee Border Masonry Wall, Inc. and appellants to file a joint status report on/before 10/17/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
46. 28-Sep-2016 FILED: Appellee Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
47. 6-Oct-2016 FILED: Stipulation to Dismiss Defendant/Appellee Trinity Plumbing 2000, Inc., ONLY, with Prejudice; Certificate of Service (Appellant)

Court of Appeals, Division One

Civil Appeal

1 CA-CV 16-0143

K HOVNANIAN et al v. BORDER et al.

60 PROCEEDING ENTRIES

48. 7-Oct-2016 ORDERED: Stipulation to Dismiss Defendant/Appellee Trinity Plumbing 2000, Inc., ONLY, with Prejudice (Appellant) = GRANTED/dismissing appellee Trinity Plumbing 2000, Inc., from this appeal, that party to bear its own costs and attorneys' fees. Melina Brill ProTem Judge - Author
49. 17-Oct-2016 FILED: Joint Status Report and Stipulated Request for an Extension of Time (Second Request); Certificate of Service (Appellant)
50. 18-Oct-2016 ORDERED: Joint Status Report = GRANTED. FURTHER ORDERED: directing appellee Border Masonry Wall, Inc. and appellants to file a joint status report on/before 11/30/2016, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
51. 24-Oct-2016 FILED: Appellants Request for Oral Argument; Certificate of Service re Request for Oral Argument (Appellant)
52. 24-Oct-2016 FILED: Appellants' Reply Brief; Certificate of Compliance; Certificate of Service (Appellants)
53. 3-Nov-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
54. 8-Nov-2016 ORDERED: Appellants Request for Oral Argument (Appellant) = GRANTED. Oral argument will be scheduled in the normal course of the court's civil appeals calendar, and the court will notify counsel of the date. Hon Michael J Brown - Author
55. 14-Nov-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
56. 30-Nov-2016 FILED: Defendant/Appellee Border Masonry Wall, Inc's Motion for Intervention; Certificate of Service (Appellee)
57. 2-Dec-2016 FILED: Joint Status Report and Stipulated Request for an Extension of Time; Certificate of Service (Appellant)
58. 6-Dec-2016 ORDERED: granting the motion (joint status report and stipulated request for an extension of time). FURTHER ORDERED: directing appellee Border Masonry Wall, Inc.. and appellants to file a joint status report on/before 01/17/2017, if a stipulation to dismiss has not been filed. Melina Brill ProTem Judge - Author
59. 15-Dec-2016 FILED: Notice of Non-Opposition Re: Defendant/Appellee Border Masonry Wall, Inc.'s Motion for Intervention; Certificate of Service (Appellant)
60. 21-Dec-2016 ORDERED: staying appeal and revesting jurisdiction in the Superior Court of Maricopa County for purpose of permitting that court to consider the Motion for Intervention. FURTHER ORDERED: within 15 days after superior court rules on motion, appellee Border Masonry Wall, Inc. shall file a notice with this court with ruling attached. FURTHER ORDERED: if this court has not received a notice or stipulation to dismiss appeal by 02/06/2017, appellee Border Masonry Wall, Inc. shall file a status report advising the court of the status of motion and settlement agreement. Hon Michael J Brown - Author