

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 21-0039**

**CENTERPOINT v. COMMONWEALTH**

**Appellate Case Information**

Case Filed: 28-Jan-2021

Case Closed:

**Dept/Composition**

**Department D**

Hon. David D Weinzwieg

Hon. Brian Y Furuya

Hon. Jennifer M Perkins

**Side 1. CENTERPOINT MECHANIC LIEN CLAIMS, LLC, Plaintiff/Appellant**

**(Litigant Group) CENTERPOINT MECHANIC LIEN CLAIMS, LLC**

- Centerpoint Mechanic Lien Claims LLC, Plaintiff/Appellant/Appellee

**Attorneys for: Plaintiff/Appellant/Appellee**

Richard M Lorenzen, Esq. (AZ Bar No. 6787)

P Derek Petersen, Esq. (AZ Bar No. 25683)

**Side 2. COMMONWEALTH LAND TITLE INSURANCE COMPANY, Defendant/Appellee**

**(Litigant Group) COMMONWEALTH LAND TITLE INSURANCE COMPANY**

- Commonwealth Land Title Insurance Co, Defendant/Appellee/Appellant

**Attorneys for: Defendant/Appellee/Appellant**

Robert R Berk, Esq. (AZ Bar No. 10162)

Charles M Callahan, Esq. (AZ Bar No. 14984)

David M Satnick, Esq. (NY Bar No. 1053222)

Helen Gavaris, Esq. (NY Bar No. 2185379)

Jonathan Paul Barnes, Jr., Esq. (AZ Bar No. 28014)

**CASE STATUS**

Aug 8, 2023.....Pending in ASC

**PREDECESSOR CASE (S)**

Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2011-008600 Breach of Contract; Declaratory Judgment		Christopher Whitten, Authoring Judge of Order		

**DESCENDENT CASE (S)**

ASC CV-23-0164-PR

**CASE DECISION**

23-May-2023 **OPINION**

Brian Furuya.....Author

David Weinzwieg.....Concur

Jennifer Perkins.....Concur

Filed: 23-May-2023

Mandate:

Decision Disposition

**Affirmed in Part**

**Reversed in Part**

**Remand with Instructions**

**95 PROCEEDING ENTRIES**

- 27-Jan-2021 ORDER: Additional Record on Appeal:  
Exhibits: Hearing Date 12/2/19 - List and # 7, 8, 10, 18, 21, 22, 23, 24, 25, 26, 28, 32, 51, 52, 53, 54, 62, 64, 67, 68, 71, 75, 78, 81, 84, 86, 87, 88, 92, 93, 110, 112, 114, 118, 119, 120, 122, 124, 125, 126, 130, 131, 133, 135, 136, 137, 138 in a white box; Sealed Items: 5/27/15 CD of 50 documents identified in centerpoint amended complaint in manila envelope; Filed Date 7/2/15 Documents of CMLC 2nd list of 50 documents in manila envelope; Filed Date 8/31/15 - Cd of Two Voume Production in manila envelope; all in the same box
- 28-Jan-2021 FILED: Index of Record, Notice of Appeal (plaintiffs) from Maricopa County Superior Court filed 12/30/20
- 28-Jan-2021 FILED: e-Record on Appeal: Instruments/Minute Entries
- 29-Jan-2021 FILED: Appellate Clerk Notice re: Each Appellant's Fee/Each Case Management Statement/Each Appellant's Brief Due
- 1-Feb-2021 FILED: Notice of Payment of Appellant Centerpoint Mechanic Lien Claims LLC's Filing Fee; Certificate of Service (Plaintiff/Appellant Centerpoint)

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6.	2-Feb-2021	FILED: Notice of Payment of Filing Fee; Certificate of Service (Defendant/Appellant Commonwealth)
7.	5-Feb-2021	RECEIPT No.: 2021-00119 ; \$280.00, Authorization: #35024612963, Applied to: CENTERPOINT MECHANIC LIEN CLAIMS, LLC - Class A Filing Fee (\$280.00) Paid for: Perkins Coie LLP - By nCourt LLC
8.	5-Feb-2021	RECEIPT No.: 2021-00123 ; \$280.00, Authorization: #35024612963, Applied to: COMMONWEALTH LAND TITLE INSURANCE COMPANY - Class A Filing Fee (\$280.00) Paid for: Jones Skelton & Hochuli PLC - By nCourt LLC
9.	18-Feb-2021	FILED: Case Management Statement (Appellant Centerpoint)
10.	18-Feb-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Notice of Filing and Service of Transcripts of Proceedings Designated on Appeal; Certificate of Service; Reporter's Transcript - 10/27/2014 - Oral Argument (Coleen Rand); Reporter's Transcript - 01/09/2015 - Oral Argument (Dianna Aldom) (Appellant Centerpoint)
11.	18-Feb-2021	FILED: Reporter's Transcript - 07/17/2017 - Oral Argument (Coleen Rand); Reporter's Transcript - 09/04/2019 - Oral Argument (Kimberly McCright); Reporter's Transcript - 11/25/2019 - Jury Trial (Kristi Week); Reporter's Transcript - 12/02/2019 - Jury Trial (Kristi Week) (Appellant Centerpoint)
12.	18-Feb-2021	FILED: Reporter's Transcript - 12/03/2019 - Jury Trial (Kristi Week); Reporter's Transcript - 12/03/2019 - Trial, p.m. (Marylynn LeMoine); Reporter's Transcript - 12/04/2019 - Jury Trial, a.m. (Kristi Week); Reporter's Transcript - 12/04/2019 - Trial, p.m. (Marylynn Lemoine) (Appellant Centerpoint)  [transcripts 12/03/2019 Trial, p.m. and 12/04/2019 Trial, p.m. are stricken per order filed 02/22/2021]
13.	18-Feb-2021	FILED: Reporter's Transcript - 12/05/2019 - Jury Trial (Kristi Week); Reporter's Transcript - 12/05/2019 - Trial, p.m. (Marylynn LeMoine); Reporter's Transcript - 12/06/2019 - Trial, a.m. (Marylynn LeMoine); Reporter's Transcript - 12/06/2019 - Jury Trial (Kristi Week) (Appellant Centerpoint)  [transcripts 12/05/2019 Trial, p.m. and 12/06/2019 Trial, a.m. are stricken per order filed 02/22/2021]
14.	18-Feb-2021	FILED: Reporter's Transcript - 12/09/2019 - Trial, a.m. (Marylynn LeMoine); Reporter's Transcript - 12/09/2019 - Jury Trial (Kristi Week); Reporter's Transcript - 12/10/2019 - Trial, a.m. (Marylynn LeMoine); Reporter's Transcript - 12/10/2019 - Jury Trial, p.m. (Kristi Week) (Appellant Centerpoint)  [transcripts 12/09/2019 Trial, a.m. and 12/10/2019 Trial, a.m. are stricken per order filed 02/22/2021]
15.	18-Feb-2021	FILED: Case Management Statement (Appellant Commonwealth)
16.	22-Feb-2021	ORDERED: Striking transcripts of 12/03/2019 (p.m.), 12/04/2019 (p.m.), 12/05/2019 (p.m.), 12/06/2019 (a.m.), 12/09/2019 (a.m.), and 12/10/2019 (a.m.) proceedings. Melina Brill ProTem Judge - Author
17.	1-Mar-2021	FILED: Reporter's Transcript - 12/09/2019 - Trial, a.m. (Marylynn LeMoine)
18.	1-Mar-2021	FILED: Reporter's Transcript - 12/10/2019 - Trial, a.m. (Marylynn LeMoine)
19.	1-Mar-2021	FILED: Reporter's Transcript - 12/03/2019 - Trial, p.m. (Marylynn LeMoine)
20.	1-Mar-2021	FILED: Reporter's Transcript - 12/04/2019 - Trial, p.m. (Marylynn LeMoine)
21.	1-Mar-2021	FILED: Reporter's Transcript - 12/05/2019 - Trial, p.m. (Marylynn LeMoine)
22.	1-Mar-2021	FILED: Reporter's Transcript - 12/06/2019 - Trial, a.m. (Marylynn LeMoine)
23.	4-Mar-2021	FILED: Notice of Filing and Service of 11/06/2019 Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
24.	4-Mar-2021	FILED: Reporter's Transcript - 11/06/2019 - Final Pre-Trial Management Conference (Amy Waid) (Appellant Commonwealth)
25.	4-Mar-2021	FILED: Notice of Filing and Service of 11/10/2020 Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
26.	4-Mar-2021	FILED: Reporter's Transcript - 11/10/2020 - Oral Argument (Cheryl Bell) (Appellant Commonwealth)
27.	4-Mar-2021	FILED: Notice of Filing and Service of 12/02/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
28.	4-Mar-2021	FILED: Reporter's Transcript - 12/02/2019 - Jury Trial Day 3 (Cynthia Piett) (Appellant Commonwealth)
29.	4-Mar-2021	FILED: Notice of Filing and Service of 12/03/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)

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30.	4-Mar-2021	FILED: Reporter's Transcript - 12/03/2019 - Jury Trial Day 4 (Cynthia Piett) (Appellant Commonwealth)
31.	4-Mar-2021	FILED: Notice of Filing and Service of 11/19/2019 Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
32.	4-Mar-2021	FILED: Reporter's Transcript - 11/19/2019 - Jury Selection (Crystal Arbogast) (Appellant Commonwealth)
33.	4-Mar-2021	FILED: Notice of Filing and Service of 12/11/2019 Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
34.	4-Mar-2021	FILED: Reporter's Transcript - 12/11/2019 - Jury Trial Day 10 (Jordan Robins) (Appellant Commonwealth)
35.	4-Mar-2021	FILED: Notice of Filing and Service of 12/04/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
36.	4-Mar-2021	FILED: Reporter's Transcript - 12/04/2019 - Jury Trial Day 5 (Cynthia Piett) (Appellant Commonwealth)
37.	4-Mar-2021	FILED: Notice of Filing and Service of 12/05/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
38.	4-Mar-2021	FILED: Reporter's Transcript - 12/05/2019 - Jury Trial Day 6 (Cynthia Piett) (Appellant Commonwealth)
39.	4-Mar-2021	FILED: Notice of Filing and Service of 12/06/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings; Certificate of Service (Appellant Commonwealth)
40.	4-Mar-2021	FILED: Reporter's Transcript - 12/06/2019 - Jury Trial Day 7 (Cynthia Piett) (Appellant Commonwealth)
41.	5-Mar-2021	FILED: Notice of Filing and Service of 12/04/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings (Duplicate); Certificate of Service (Duplicate) (Appellant Commonwealth)
42.	5-Mar-2021	FILED: Reporter's Transcript - 12/04/2019 - Jury Trial Day 5 (Cynthia Piett) (Duplicate) (Appellant Commonwealth)
43.	5-Mar-2021	FILED: Notice of Filing and Service of 12/05/2019 Partial (Designation of Record) Reporter's Transcript of Proceedings (Duplicate); Certificate of Service (Duplicate) (Appellant Commonwealth)
44.	5-Mar-2021	FILED: Reporter's Transcript - 12/05/2019 - Jury Trial Day 6 (Cynthia Piett) (Duplicate) (Appellant Commonwealth)
45.	23-Mar-2021	FILED: Notice of Association of Counsel; Certificate of Service (Appellant Commonwealth)
46.	23-Mar-2021	FILED: Unopposed Motion for Procedural Order Extending Time to File Opening Briefs by 30 Days; Certificate of Service (Appellant)
47.	24-Mar-2021	ORDERED: Unopposed Motion for Procedural Order Extending Time to File Opening Briefs by 30 Days (Appellant Commonwealth) = GRANTED. Due dates EXTENDED from Tuesday, 03-30-2021 to Thursday, 04-29-2021. If briefs are not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
48.	26-Apr-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Notice of Filing of Supplemental Excerpts of Trial Transcripts Designation on Appeal; Certificate of Service; Reporter's Transcript - 12/02/2019 - Excerpts from Trial (Marylynn LeMoine); Reporter's Transcript - 12/04/2019 - Excerpt of Trial, p.m. (Marylynn LeMoine) (Appellant Centerpoint)
49.	26-Apr-2021	FILED: Reporter's Transcript - 12/05/2019 - Excerpts from Trial (Marylynn LeMoine) (Appellant Centerpoint)
50.	29-Apr-2021	FILED: Defendant/Appellee/Appellant Commonwealth Land Title Insurance Company's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Commonwealth)
51.	29-Apr-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Centerpoint)
52.	29-Apr-2021	FILED: Separate Appendix to Opening Brief of Plaintiff/Appellant/Appellee Centerpoint Mechanic Lien Claims LLC (Appellant Centerpoint)
53.	28-May-2021	FILED: Unopposed Motion for Extension of Time to File Answering Briefs; Certificate of Service (Appellee/Appellant Commonwealth)
54.	28-May-2021	ORDERED: Unopposed Motion for Extension of Time to File Answering Briefs (Appellee/Appellant Commonwealth) = GRANTED. Due dates EXTENDED from Tuesday, 06-08-2021 to Thursday, 07-08-2021. If briefs are not timely filed, the court will submit this appeal for decision on record and filed briefs. Melina Brill ProTem Judge - Author
55.	8-Jul-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Answering Brief; Certificate of Compliance; Certificate of Service (Appellant/Appellee Centerpoint)

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56.	8-Jul-2021	FILED: Supplemental Appendix to Plaintiff/Appellant/Appellee Centerpoint Mechanic Lien Claims LLC's Answering Brief (Appellant/Appellee Centerpoint)
57.	8-Jul-2021	FILED: Defendant/Appellee/Appellant Commonwealth Land Title Insurance Company's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee/Appellant Commonwealth)
58.	21-Jul-2021	FILED: Unopposed Motion to Extend Time to File Reply Brief; Certificate of Service (Appellant)
59.	22-Jul-2021	ORDERED: Unopposed Motion to Extend Time to File Reply Brief (Appellee/Appellant Commonwealth) = GRANTED. Due dates EXTENDED from Wednesday, 07-28-2021 to Friday, 08-27-2021. If either brief is not timely filed, the court will submit this appeal for decision on record and filed briefs. Melina Brill ProTem Judge - Author
60.	27-Aug-2021	FILED: Defendant/Appellee/Appellant Commonwealth Land Title Insurance Company's Reply Brief; Certificate of Compliance; Certificate of Service (Appellee/Appellant Commonwealth)
61.	27-Aug-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Reply Brief; Centerpoint Mechanic Lien Claims LLC's Certificate of Compliance; Centerpoint Mechanic Lien Claims LLC's Certificate of Service (Appellant/Appellee Centerpoint)
62.	27-Aug-2021	FILED: Supplemental Appendix to Plaintiff/Appellant/Appellee Centerpoint Mechanic Lien Claims LLC's Reply Brief (Appellant/Appellee Centerpoint)
63.	27-Aug-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Request for Oral Argument; Centerpoint Mechanic Lien Claims LLC's Certificate of Service (Appellant/Appellee Centerpoint)
64.	9-Sep-2021	FILED: Defendant/Appellee/Appellant Commonwealth Land Title Insurance Company's Request for Oral Argument; Alternative Request for Consolidated and Extended Oral Argument; Certificate of Service (Appellee/Appellant Commonwealth)
65.	15-Sep-2021	ORDERED: Centerpoint Mechanic Lien Claims LLC's Request for Oral Argument (Appellant/Appellee Centerpoint) AND Defendant/Appellee/Appellant Commonwealth Land Title Insurance Company's Request for Oral Argument; Alternative Request for Consolidated and Extended Oral Argument (Appellee/Appellant Commonwealth) = GRANTED. Hon Kent E Cattani - Author
66.	15-Sep-2021	FILED: Centerpoint Mechanic Lien Claims LLC's Statement of Position Regarding Commonwealth Land Title Company's Request for Oral Argument; Alternative Request for Consolidated and Extended Oral Argument; Centerpoint Mechanic Lien Claims LLC's Certificate of Service (Appellant/Appellee Centerpoint)
67.	17-Sep-2021	ORDERED: Affirming the court's 09/15/2021 order granting oral argument in this appeal. FURTHER ORDERED: Centerpoint Mechanic Lien Claims LLC's Statement of Position Regarding Commonwealth Land Title Company's Request for Oral Argument; Alternative Request for Consolidated and Extended Oral Argument (Appellant/Appellee Centerpoint) = GRANTED. Hon Kent E Cattani - Author
68.	1-Oct-2021	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
69.	19-Oct-2021	FILED: Supplemented Superior Court e-Record with Revised Index of Record
70.	24-Nov-2021	CLNDR: MONTHLY COURT CASE CALENDAR, Department D, 1-5-22, 10:15 am, COURTROOM 1.
71.	30-Nov-2021	FILED: Notice of Oral Argument
72.	30-Nov-2021	FILED: Amended Notice of Oral Argument (40 minutes per arguing side)
73.	2-Dec-2021	FILED: Return Receipt for Notice of Oral Argument, signed by David M. Satnick / Robert R. Berk on 11/30/2021 (Appellant)
74.	3-Dec-2021	FILED: Return Receipt for Notice of Oral Argument, signed by Richard M Lorenzen on 11/30/2021 (Appellant)
75.	10-Dec-2021	ORDERED: Vacating conference initially set in this matter for 01/05/2022, and resetting it for 01/19/2022. FURTHER ORDERED: Vacating Oral Argument set for 01/05/2022 at 10:15 am. FURTHER ORDERED: Setting oral argument before Department D in this matter on 01/19/2022 at 9:30 a.m. in Courtroom 1. Hon David D Weinzwieg - Author
76.	15-Dec-2021	ORDERED: Affirming the rescheduled dates in 12/10/2021 order. Hon David D Weinzwieg - Author
77.	16-Dec-2021	FILED: Return Receipt for Notice of Oral Argument, signed by David Satnick/Robert Berk on 12/15/2021 (Appellant)
78.	17-Dec-2021	FILED: Return Receipt for Notice of Oral Argument, signed by Richard M. Lorenzen on 12/15/2021 (Appellant)
79.	5-Jan-2022	ORDERED: Reducing the time previously allotted for oral argument in this matter from forty (40) minutes per side to twenty-five (25) minutes per side. The court retains the discretion to grant additional time during the argument as needed. FURTHER ORDERED: Affirming the court's "Amended Notice of Oral Argument" in all other respects. Hon David D Weinzwieg - Author
80.	6-Jan-2022	FILED: Return Receipt for Notice of Oral Argument, signed by David M. Satnick/Robert R. Berk on 01/05/2022 (Appellee)
81.	7-Jan-2022	FILED: Return Receipt for Notice of Oral Argument, signed by Richard M. Lorenzen on 01/05/2022 (Appellant)

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82.	10-Jan-2022	FILED: Court, Presiding Judge David D. Weinzwieg, Judge Brian Y. Furuya, and Judge Jennifer M. Perkins, issues this Notice to explain how oral argument will proceed on 01/19/2022. Each side will have 25 total minutes to present an argument and a response in this order: (1) Appellant/Cross-Appellee, (2) Appellee/Cross-Appellant, (3) Appellant/Cross-Appellee, and (4) Appellee/Cross-Appellant. The parties must keep track of their own time and may apportion their 25 minutes as needed. Hon David D Weinzwieg - Author
83.	26-Jan-2022	FILED: Sign-in Sheet/Case is Under Advisement as of 01/19/2022
84.	1-Mar-2023	FILED: Notice of Withdrawal as Counsel Within Firm; Centerpoint Mechanic Lien Claims LLC's Certificate of Service (Appellant)
85.	23-May-2023	OPINION (Affirmed in Part, Reversed in Part, Remand with Instructions) Hon Brian Y Furuya - Author; Hon David D Weinzwieg - Concur; Hon Jennifer M Perkins - Concur
86.	23-May-2023	FILED: Opinion Distribution List
87.	6-Jun-2023	FILED: Centerpoint Mechanic Lien Claims LLC's Verified Statement of Costs; Certificate of Service (Appellant/Appellee Centerpoint)
88.	7-Jun-2023	FILED: Commonwealth Land Title Insurance Company's Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Appellee/Appellant Commonwealth)
89.	21-Jun-2023	ORDERED: Centerpoint Mechanic Lien Claims LLC's Verified Statement of Costs (Appellant/Appellee Centerpoint) = GRANTED and awarding Centerpoint Mechanic Lien Claims, LLC's costs in the amount of \$1,521.09. Hon Brian Y Furuya - Author
90.	21-Jun-2023	ORDERED: Commonwealth Land Title Insurance Company's Motion for Reconsideration (Appellee/Appellant Commonwealth) = DENIED. Hon Brian Y Furuya - Author
91.	27-Jun-2023	FILED: Letter from ASC 06/27/2023 re: Petition for Review CONTINUED on 06/27/2023
92.	27-Jun-2023	FILED: ASC Order filed 06/27/2023 re: extending time for filing Petition for Review to 08/07/2023
93.	8-Aug-2023	FILED: Email Notice from ASC re: Petition for Review filed 08/07/2023; request for partial record
94.	8-Aug-2023	FILED: Letter forwarding partial record to Arizona Supreme Court
95.	19-Oct-2023	FILED: ASC Order filed 10/19/2023 re: granting extension of time to file response to cross-petition for review until 11/21/2023