

Court of Appeals, Division One

Civil Appeal

1 CA-CV 22-0566

KRIVULKA v. LERNER et al./KRIVULKA

Appellate Case Information

Case Filed: 13-Sep-2022

Case Closed: 20-May-2024

Decision

Dept/Composition

Department E

Hon. Cynthia J Bailey
Hon. Jennifer B Campbell
Hon. David D Weinzwieg

Side 1. ANGELA L. KRIVULKA, Plaintiff/Appellant

(Litigant Group) ANGELA L. KRIVULKA

- Angela L Krivulka

Attorneys for: Plaintiff/Appellant

Patricia Lee Refo, Esq. (AZ Bar No. 17032)

Matt Jarvey, Esq. (AZ Bar No. 31350)

Side 2. MICHAEL J. LERNER, et al., Defendant/Appellee

(Litigant Group) MICHAEL J. LERNER, et al.

- Michael J Lerner
- Harriet Derman
- ESTATE: Estate of Joseph J Krivulka

Co-Counsel for: Defendants/Appellees Lerner

Daryl Manhart, Esq. (AZ Bar No. 5471)

Bryan F Murphy, Esq. (AZ Bar No. 6414)

Ralph D Harris, Esq. (AZ Bar No. 6881)

David B Rosenbaum, Esq. (AZ Bar No. 9819)

Joseph N Roth, Esq. (AZ Bar No. 25725)

Joshua J. Messer, Esq. (AZ Bar No. 35101)

Side 3. HANNAH KRIVULKA ,et al., Intervenor/Appellee

(Litigant Group) HANNAH KRIVULKA ,et al.

- Hannah Krivulka
- Preston Krivulka
- Erin Krivulka

Attorneys for: Intervenor/Appellees Krivulka

Howard Ross Cabot, Esq. (AZ Bar No. 6669)

John H Gray, Esq. (AZ Bar No. 28107)

Margo R. Casselman, Esq. (AZ Bar No. 34963)

CASE STATUS

May 20, 2024....Case Closed

PREDECESSOR CASE (S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2020-008668	Declaratory Judgment		Katherine Cooper, Authoring Judge of Order		

CASE DECISION

11-Apr-2024 MEMORANDUM DECISION

Cynthia Bailey.....Author

Jennifer Campbell.....Concur

David Weinzwieg.....Concur

Filed: 11-Apr-2024

Mandate: 20-May-2024

Decision Disposition

Affirmed

44 PROCEEDING ENTRIES

- 13-Sep-2022 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/15/22
- 13-Sep-2022 FILED: e-Record on Appeal:
Instruments/Minute Entries
Exhibits: None
- 13-Sep-2022 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
- 26-Sep-2022 FILED: Appellant's Notice of Paying Filing Fee; Certificate of Service to Appellant's Notice of Paying Filing Fee (Appellant)
- 29-Sep-2022 RECEIPT No.: 2022-01037 ; \$280.00, Authorization: #72007498592, Applied to: ANGELA L. KRIVULKA - Class A Filing Fee (\$280.00) Paid for: Snell & Wilmer LLP - By nCourt LLC
- 3-Oct-2022 FILED: Case Management Statement (Appellant)

Court of Appeals, Division One**Civil Appeal****1 CA-CV 22-0566****KRIVULKA v. LERNER et al./KRIVULKA****44 PROCEEDING ENTRIES**

7.	7-Oct-2022	FILED: Appellate Clerk Notice re: Appellees' Fees; Appellant's Brief Due
8.	10-Oct-2022	FILED: Letter re: paying filing fee for Michael J. Lerner, Harriet Derman and Estate of Joseph J. Krivulka (Appellee Lerner)
9.	17-Oct-2022	RECEIPT No.: 2022-01081 ; \$140.00, Authorization: #90012555427, Applied to: MICHAEL J. LERNER, et al. - Class B Filing Fee (\$140.00) Paid for: Osborn Maledon PA - By nCourt LLC
10.	17-Oct-2022	FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellee Krivulka)
11.	21-Oct-2022	RECEIPT No.: 2022-01096 ; \$140.00, Authorization: #94008285801, Applied to: HANNAH KRIVULKA ,et al. - Class B Filing Fee (\$140.00) Paid for: Perkins Coie LLP - By nCourt LLC
12.	9-Nov-2022	FILED: Motion for Procedural Order for Leave to File Opening Brief Under Seal; Certificate of Service to Motion for Procedural Order for Leave to File Opening Brief Under Seal (Appellant)
13.	9-Nov-2022	FILED: Appellant's Notice of Change of Firm Address; Certificate of Service to Appellant's Notice of Change of Firm Address (Appellant)
14.	14-Nov-2022	FILED: Appellant's Opening Brief (Appellant) [SEALED]
15.	14-Nov-2022	FILED: Certificate of Service to Appellant's Opening Brief and Appendix (Appellant)
16.	17-Nov-2022	ORDERED: Motion for Procedural Order for Leave to File Opening Brief Under Seal (Appellant) = GRANTED and accepting the opening brief as filed under seal on 11/14/2022, subject to access by court personnel as needed for processing this appeal. Hon Kent E Cattani - Author
17.	1-Dec-2022	FILED: Unopposed Motion for Procedural Order Extending Time to File Answering Brief; Certificate of Service (Appellee)
18.	2-Dec-2022	ORDERED: Unopposed Motion for Procedural Order Extending Time to File Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Tuesday, 12-27-2022 to Thursday, 01-26-2023. If the briefs are not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
19.	5-Dec-2022	FILED: Certificate of Service to Supplement Index of Record (Appellant)
20.	5-Dec-2022	FILED: Stipulated Motion for Procedural Order for Leave to Supplement the Record Under Seal; Certificate of Service to Stipulated Motion for Procedural Order for Leave to Supplement the Record Under Seal (Appellant)
21.	5-Dec-2022	FILED: Supplemental Index of Record Filed Under Seal (FILED UNDER SEAL)
22.	9-Dec-2022	FILED: Notice of Withdrawal of Counsel (Same Firm); Certificate of Service of Notice of Withdrawal of Counsel (Same Firm) (Appellant)
23.	9-Dec-2022	ORDERED: Stipulated Motion for Procedural Order for Leave to Supplement the Record Under Seal (Appellant) = GRANTED and supplementing the record on appeal with the documents identified on the Supplemental Index of Record attached to the motion. FURTHER ORDERED: Allowing the documents that were filed under seal in the superior court to be filed under seal in this court, subject to access by court personnel as needed for processing this appeal. Hon Kent E Cattani - Author
24.	26-Jan-2023	FILED: Defendants/Appellees Michael J. Lerner, Harriet Derman, and Estate of Joseph J. Krivulka's Answering Brief and Appendix; Certificate of Compliance; Certificate of Service (Appellee Lerner)
25.	26-Jan-2023	FILED: Intervenor/Appellees Hannah Krivulka, Preston Krivulka, and Erin Krivulka's Answering Brief - and - Joinder in Defendants/Appellees' Answering Brief; Certificate of Compliance; Certificate of Service (Appellee Krivulka)
26.	2-Feb-2023	FILED: Motion for Procedural Order Extending Time to File Reply Brief; Certificate of Service to Motion for Procedural Order Extending Time to File Reply Brief (Appellant)
27.	3-Feb-2023	ORDERED: Motion for Procedural Order Extending Time to File Reply Brief (Appellant) = GRANTED. Due dates EXTENDED from Wednesday, 02-15-2023 to Monday, 02-27-2023. If the briefs are not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
28.	27-Feb-2023	FILED: Notice of Request for Oral Argument; Certificate of Service to Notice of Request for Oral Argument (Appellant)
29.	27-Feb-2023	FILED: Appellant's Reply Brief; Certificate of Compliance to Appellant's Reply Brief; Certificate of Service to Appellant's Reply Brief (Appellant)
30.	3-Mar-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
31.	13-Mar-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
32.	31-Mar-2023	ORDERED: Notice of Request for Oral Argument (Appellant) = GRANTED. Hon Kent E Cattani - Author

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33.	5-Apr-2023	FILED: Motion for Procedural Order Removing Jeffrey Wild from Distribution List; Certificate Of Service To Motion For Procedural Order Removing Jeffrey Wild From Distribution List (Appellant)
34.	7-Apr-2023	ORDERED: Motion for Procedural Order Removing Jeffrey Wild from Distribution List (Appellant) = GRANTED and removing Jeffrey Wild of Lowenstein Sandler LLP from the distribution list. Melina Brill ProTem Judge - Author
35.	28-Apr-2023	FILED: Notice of Oral Argument
36.	25-May-2023	FILED: Return Receipt for Notice of Oral Argument, signed by Matt Jarvey on 04/28/2023 (Appellant)
37.	25-May-2023	FILED: Return Receipt for Notice of Oral Argument, signed by David Rosenbaum on 04/28/2023 (Appellee Lerner)
38.	16-Jun-2023	CLNDR: MONTHLY COURT CASE CALENDAR, Department E, 6-22-23, 09:30 am, COURTROOM 1.
39.	22-Jun-2023	FILED: Sign-in Sheet/Case is Under Advisement as of 06/22/2023
40.	21-Sep-2023	FILED: Appellees' Notice of Supplemental Authority; Certificate of Service (Appellees Lerner)
41.	11-Mar-2024	FILED: Notice of Change of Address; Certificate of Service (Appellee Krivulka)
42.	11-Apr-2024	MEMORANDUM DECISION (Affirmed) Hon Cynthia J Bailey - Author; Hon Jennifer B Campbell - Concur; Hon David D Weinzwieg - Concur
43.	11-Apr-2024	FILED: Decision Distribution Notification
44.	20-May-2024	FILED: Mandate, No physical record to be returned to clerk, Maricopa County Superior Court.