

Court of Appeals, Division One

Civil Appeal

1 CA-CV 22-0571

COCCHIA v. TESTA, et al.

Appellate Case Information

Case Filed: 14-Sep-2022

Case Closed: 27-Mar-2024

Reinstated x 1: 1-Apr-2024 Decision

Re-Closed:

Dept/Composition

Department D

Hon. Paul J McMurdie

Hon. Michael J Brown

Hon. Michael S Catlett

Side 1. FRANCIS A. COCCHIA, Plaintiff/Appellant

(Litigant Group) FRANCIS A. COCCHIA

- Francis A Cocchia

Attorneys for: Plaintiff/Appellant

David T Bonfiglio, Esq. (AZ Bar No. 14964)

Side 2. ROBERT J. TESTA, et al., Defendant/Appellee

(Litigant Group) ROBERT J. TESTA, et al.

- Robert J Testa
- Robert J Testa, Jr.
- Karen M Testa Separate Property Trust

Attorneys for: Defendant/Appellee

Douglas C Erickson, Esq. (AZ Bar No. 12130)

CASE STATUS

Apr 1, 2024.....Reinstated Case

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2019-013395	Foreign Judgment		Mary Collins Cronin, Authoring Judge of Order		

DESCENDENT CASE(S)

ASC CV-23-0254-PR

CASE DECISION

12-Sep-2023 MEMORANDUM DECISION

Vacated

Opinion Depublished by ASC 3/5/24

Filed: 12-Sep-2023

Mandate:

Decision Disposition

Vacated

Michael Catlett.....Author

Paul McMurdie.....Concur

Michael Brown.....Special Concurrence

37 PROCEEDING ENTRIES

1.	14-Sep-2022	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/16/22
2.	14-Sep-2022	FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3.	14-Sep-2022	FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4.	19-Sep-2022	RECEIPT No.: 2022-00995 ; \$280.00, Check Number: #11713, Applied to: FRANCIS A. COCCHIA - Class A Filing Fee (\$280.00) Paid for: - By David T Bonfiglio PC
5.	29-Sep-2022	FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
6.	3-Oct-2022	FILED: Case Management Statement (Appellant)
7.	4-Oct-2022	FILED: Appellant's Notice of Filing Certified Transcript of the Record of the Proceedings; Reporter's Transcript - 01/24/2020 - Oral Arguments (Ashley Lloyd); Reporter's Transcript - 01/07/2020 - Status Conference (Ashley Lloyd); Reporter's Transcript - 05/25/2021 - Status Conference (Ashley Lloyd) (Appellant)

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8.	4-Oct-2022	FILED: Appellant's Second Notice of Filing Certified Transcript of the Record of the Proceedings; Reporter's Transcript - 01/19/2022 - Emergency Hearing on Temporary Restraining Order (Ashley Lloyd); Reporter's Transcript - 02/18/2022 - Oral Argument (Ashley Lloyd) (Appellant)
9.	13-Oct-2022	FILED: Notice of Payment of Filing Fee; Notice of Payment of Filing Fee (Certificate of Service) (Appellee)
10.	18-Oct-2022	RECEIPT No.: 2022-01090 ; \$140.00, Authorization: #91014489446, Applied to: ROBERT J. TESTA, et al. - Class B Filing Fee (\$140.00) Paid for: Maynard Cronin Erickson Curran & Reiter PLC - By nCourt LLC
11.	14-Nov-2022	FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
12.	3-Jan-2023	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
13.	3-Jan-2023	FILED: Appellee's Appendix to Answering Brief (Appellee)
14.	23-Jan-2023	FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
15.	31-Jan-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
16.	10-Feb-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
17.	2-Mar-2023	CLNDR: CONFERENCE, Department D, 4-12-23, CONFERENCE ROOM.
18.	12-Sep-2023	OPINION (Vacated) Hon Michael S Catlett - Author; Hon Paul J McMurdie - Concur; Hon Michael J Brown - Special Concurrence (Opinion Depublished by ASC 3/5/24)
19.	12-Sep-2023	FILED: Opinion Distribution List
20.	2-Oct-2023	FILED: Objection to Application for Attorneys' Fees; Certificate of Service (Appellees)
21.	5-Oct-2023	FILED: Amendment to Objection to Application for Attorneys' Fees; Certificate of Service (Appellees)
22.	13-Oct-2023	FILED: Email Notice from ASC re: Petition for Review filed 10/11/2023; request for partial record
23.	13-Oct-2023	FILED: Letter forwarding partial record to Arizona Supreme Court
24.	23-Oct-2023	ORDERED: Objection to Application for Attorneys' Fees (Appellees) = Overruling the Objection as moot. Hon Michael S Catlett - Author
25.	24-Oct-2023	FILED: Appellant's Motion to Accept Appellant's Attorney Fee Application and Statement of Costs as Timely Filed; Certificate of Service (Appellant)
26.	24-Oct-2023	FILED: Certificate of Service (Duplicate) (Appellant)
27.	24-Oct-2023	FILED: Appellant's Amendedmotion[sic] to Accept Appellant's Attorney Fee Application and Statement of Costs as Timely Filed; Certificate of Service; Exhibit (Application for Attorney Fees); Exhibit (Statement of Costs) (Appellant)
28.	30-Nov-2023	ORDERED: Appellant's Motion to Accept Appellant's Attorney Fee Application and Statement of Costs as Timely Filed (Appellant) = GRANTED/extending the deadline for Plaintiff/Appellant to file an application for attorneys' fees and costs to 12/06/23. FURTHER ORDERED: Defendant/Appellee shall file any further objection to Plaintiff/Appellant's application for attorneys' fees and costs within ten business days of the filing of any such application. FURTHER ORDERED: No reply brief is permitted. Hon Michael S Catlett - Author
29.	5-Dec-2023	FILED: Appellant's Attorney Fee Application; Certificate of Service (Appellant)
30.	5-Dec-2023	FILED: Statement of Costs; Certificate of Service (Appellant)
31.	18-Dec-2023	FILED: Objection to Appellant's December 5, 2023 Application for Attorneys' Fees; Certificate of Service (Appellee)
32.	27-Dec-2023	ORDERED: Appellant's Attorney Fee Application/Statement of Costs (Appellant) = GRANTED in the amount of \$16,917 in fees and \$867.30 in costs. Hon Michael S Catlett - Author
33.	5-Mar-2024	FILED: Letter from ASC, 03/05/2024, re: Petition for Review DENIED on 03/05/2024. ORDERED: Motion for Review of Fee Award = GRANTED, vacating the fees awarded by the Court of Appeals under A.R.S. § 12-341.01. The claim here is one for fraudulent transfer and did not arise out of a contract. FURTHER ORDERED: Request for Attorneys' Fees (Appellee Testa) = DENIED. FURTHER ORDERED: depublishing the opinion of the court of appeals pursuant to Rule 111(g) of the Arizona Supreme Court.

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34. 27-Mar-2024 FILED: Mandate, No physical record to be returned to clerk, Maricopa County Superior Court.
[vacated per order filed 04/01/2024]
35. 28-Mar-2024 FILED: Notice of Filing Motion to Reconsider the Supreme Court Reversing the Court of Appeals Attorney Fee Award and Request to Withdraw the Mandate; Certificate of Service (Appellant)
36. 1-Apr-2024 ORDERED: Notice of Filing Motion to Reconsider the Supreme Court Reversing the Court of Appeals Attorney Fee Award and Request to Withdraw the Mandate (Appellant) = GRANTED and recalling the mandate previously issued on 03/27/2024 until the Arizona Supreme Court decides Plaintiff/Appellant's motion for reconsideration. Hon Michael S Catlett - Author
37. 2-Apr-2024 FILED: ASC Order filed 04/02/2024 re: denying Motion to Reconsider Vacating Appellant's Attorney Fee Award.