

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0164

CARTER v. BNSF RAILWAY

Appellate Case Information

Case Filed: 23-Mar-2023

Case Closed:

Dept/Composition

Department F

Hon. Jennifer B Campbell
Hon. Kent E Cattani
Hon. Anni Hill Foster

Side 1. MARVIN CARTER, II, Plaintiff/Appellant

(Litigant Group) MARVIN CARTER, II

- Marvin Carter, II

Co-Counsel for: Plaintiff/Appellant

David L Abney, Esq. (AZ Bar No. 9001)
Mark P Breyer, Esq. (AZ Bar No. 16862)
Brian C Fawber, Esq. (AZ Bar No. 28577)
George A Thorton, Esq. (WA Bar No. 8198)
Andrew Fuller, Esq. (AZ Bar No. andrewfuller)

Side 2. BNSF RAILWAY COMPANY, Defendant/Appellee

(Litigant Group) BNSF RAILWAY COMPANY

- BNSF Railway Company

Co-Counsel for: Defendant/Appellee

Justin Duke Rodriguez, Esq. (AZ Bar No. 24765)
Julia E McFall, Esq. (AZ Bar No. 37973)
Susan M Freeman, Esq. (AZ Bar No. 4199)

CASE STATUS

Jun 25, 2024....Decision Rendered

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2019-014216	Medical Malpractice		Jay R Adleman, Authoring Judge of Order		

OPEN DUE DATE

Petition for Review to ASC due

Due By:

Thursday, July 25, 2024

Re: OPINION (Affirmed) Hon Kent E Cattani - Author; Hon Jennifer B Campbell - Concur; Hon Anni Hill Foster - Concur

2 CASE DECISIONS

13-Feb-2024 MEMORANDUM DECISION

Kent Cattani.....Author
Jennifer Campbell.....Concur
Anni Foster.....Concur

Filed: 13-Feb-2024

Mandate:

Decision Disposition

Affirmed

25-Jun-2024 OPINION

Kent Cattani.....Author
Jennifer Campbell.....Concur
Anni Foster.....Concur

Filed: 25-Jun-2024

Mandate:

Decision Disposition

Affirmed

35 PROCEEDING ENTRIES

- 23-Mar-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 02/23/23
- 23-Mar-2023 FILED: e-Record on Appeal:
Instruments/Minute Entries
Exhibits: None
- 23-Mar-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0164****CARTER v. BNSF RAILWAY****35 PROCEEDING ENTRIES**

4.	6-Apr-2023	FILED: Notice of Appearance of Attorney David L. Abney; Certificate of Service for Notice of Appearance of Attorney David L. Abney (Appellant)
5.	12-Apr-2023	RECEIPT No.: 2023-00353 ; \$280.00, Authorization: #02012260812, Applied to: MARVIN CARTER, II - Class A Filing Fee (\$280.00) Paid for: Ahwatukee Legal Office PC - By nCourt LLC
6.	12-Apr-2023	FILED: Case Management Statement (Appellant)
7.	21-Apr-2023	FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief Due
8.	28-Apr-2023	FILED: Notice of Appearance; Certificate of Service (Appellee)
9.	4-May-2023	RECEIPT No.: 2023-00409 ; \$140.00, Authorization: 24003335152, Applied to: BNSF RAILWAY COMPANY - Class B Filing Fee (\$140.00) Paid for: Lewis Roca Rothgerber Christie LLP - By nCourt LLC
10.	19-May-2023	FILED: Stipulated Motion to Extend Briefing Deadlines; Certificate of Service (Appellee)
11.	19-May-2023	ORDERED: Stipulated Motion to Extend Briefing Deadlines (Appellee) = GRANTED. Due date (opening brief) EXTENDED from Monday, 05-22-2023 to Monday, 06-05-2023. FURTHER ORDERED: Extending the time to file the answering brief to 08/14/2023. If the briefs are not timely filed, the court will either dismiss this appeal or submit it for decision on the record and the filed brief. Melina Brill ProTem Judge - Author
12.	1-Jun-2023	FILED: Motion for Procedural Order on Due Dates; Certificate of Service for Motion for Procedural Order on Due Dates (Appellant)
13.	5-Jun-2023	ORDERED: Motion for Procedural Order on Due Dates (Appellant) = GRANTED. Due date EXTENDED from Monday, 06-05-2023 to Monday, 06-26-2023. FURTHER ORDERED: Extending the time to file the answering brief to 09/05/2023. If the briefs are not timely filed, the court will either dismiss this appeal or submit it for decision on the record and the filed brief. Melina Brill ProTem Judge - Author
14.	26-Jun-2023	FILED: Opening Brief; Certificate of Compliance for Opening Brief; Certificate of Service for Opening Brief (Appellant)
15.	31-Aug-2023	FILED: Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
16.	16-Sep-2023	FILED: Reporter's Transcript - 03/03/2021 - Oral Argument (Michele Kaley) (Appellant)
17.	20-Sep-2023	FILED: Motion for Oral Argument; Certificate of Service for Motion for Oral Argument (Appellant)
18.	20-Sep-2023	FILED: Reply Brief; Certificate of Compliance for Reply Brief; Certificate of Service for Reply Brief (Appellant)
19.	22-Sep-2023	FILED: Response to Motion for Oral Argument; Certificate of Service (Appellee)
20.	27-Sep-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
21.	6-Oct-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
22.	13-Oct-2023	ORDERED: Motion for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
23.	25-Oct-2023	CLNDR: MONTHLY COURT CASE CALENDAR, Department F, 12-14-23, 09:30 am, COURTROOM 2.
24.	30-Oct-2023	FILED: Notice of Oral Argument
25.	31-Oct-2023	FILED: Return Receipt for Notice of Oral Argument, signed by Susan Freeman on 10/30/2023 (Appellee)
26.	10-Nov-2023	FILED: Return Receipt for Notice of Oral Argument, signed by David Abney on 10/30/2023 (Appellant)
27.	14-Dec-2023	FILED: Sign-in Sheet/Case is Under Advisement as of 12/14/2023
28.	13-Feb-2024	MEMORANDUM DECISION (Affirmed) Hon Kent E Cattani - Author; Hon Jennifer B Campbell - Concur; Hon Anni Hill Foster - Concur [Withdrawn per order filed 6/25/24]
29.	13-Feb-2024	FILED: Decision Distribution Notification
30.	21-Feb-2024	FILED: Motion to Publish Memorandum Decision as an Opinion; Certificate of Service (Appellee)
31.	4-Mar-2024	FILED: Response to Motion to Publish Memorandum Decision as an Opinion; Certificate of Service for Response to Motion to Publish Memorandum Decision as an Opinion (Appellant)
32.	6-Mar-2024	FILED: Reply In Support of Motion to Publish Decision as an Opinion; Certificate of Service (Appellee)

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0164

CARTER v. BNSF RAILWAY

35 PROCEEDING ENTRIES

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| 33. | 25-Jun-2024 | ORDERED: Motion to Publish Memorandum Decision as an Opinion (Appellee) = GRANTED, withdrawing the Memorandum Decision filed 2/13/24 and substituting it with the Opinion issued this date. Hon Kent E Cattani - Author |
| 34. | 25-Jun-2024 | OPINION (Affirmed) Hon Kent E Cattani - Author; Hon Jennifer B Campbell - Concur; Hon Anni Hill Foster - Concur |
| 35. | 25-Jun-2024 | FILED: Decision Distribution Notification |