

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0258****HEROLD v. PRAY, et al.****Appellate Case Information**

Case Filed: 15-May-2023

Case Closed:

**Dept/Composition****Department B**Hon. Andrew M Jacobs  
Hon. Jennifer M Perkins  
Hon. David D Weinzwieg**Side 1. JAMES HEROLD, a married man acting for his sole and separate property, Plaintiff/Appellant****(Litigant Group) JAMES HEROLD, a married man acting for his sole and separate property**

- James Herold

**Attorneys for: Plaintiff/Appellant**

David L Allen, Esq. (AZ Bar No. 20339)

Corrinne R Viola, Esq. (AZ Bar No. 33386)

Kathi M Sandweiss, Esq. (AZ Bar No. 11078)

**Side 2. THOMAS PRAY and TAMARA PRAY; husband and wife; DESERT MARTINI & TAVERN CORPORATION, an Arizona corporation, dba DESERT MARTINI; GEORGE GRABANSKI and J. DOE GRABANSKI, husband and wife; LAURIE K. MCKIM and J. DOE MCKIM, wife and husband; DESERT MARTINI LHC, INC., an Arizona corporation dba DESERT MARTINI; SUZANNE M. BALLARD and J. DOE BALLARD, wife and husband; BROOKS-CLARK & ASSOCIATES, LLC, an Arizona limited liability corporation, Defendant/Appellee****(Litigant Group) TAMARA PRAY; husband and wife; DESERT MARTINI & TAVERN CORPORATION, an Arizona corporation, dba DESERT MARTINI**

- Thomas Pray

**Attorneys for: Defendants/Appellees Pray et al.**

Kenneth E Moyer, Esq. (AZ Bar No. 12533)

- Tamara Pray

- Desert Martini & Tavern Corporation

**(Litigant Group) GEORGE GRABANSKI; LAURIE K. MCKIM and J. DOE MCKIM, wife and husband**

- George Grabanski

**Attorneys for: Defendants/Appellees Grabanski et al**

Scott A Malm, Esq. (AZ Bar No. 18484)

- Laurie K McKim

**(Litigant Group) DESERT MARTINI LHC, INC.**

- Desert Martini LHC Inc

**Attorneys for: Defendant/Appellee DM LHC**

Stephanie M Wilson, Esq. (AZ Bar No. 16666)

**(Litigant Group) SUZANNE M. BALLARD and J. DOE BALLARD, wife and husband**

- Susan M Ballard

**Attorneys for: Defendants/Appellees Ballard**

Wade M Burgeson, Esq. (AZ Bar No. 15650)

**(Litigant Group) BROOKS-CLARK & ASSOCIATES, LLC, an Arizona limited liability corporation**

- Brooks-Clark & Associates LLC

**Attorneys for: Defendant/Appellee Brooks Clark**

David W Smith, Esq. (AZ Bar No. 12892)

**CASE STATUS**

Feb 20, 2024....Under Advisement

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MOH S8015CV201900850	Declaratory Judgment		Lee Frank Jantzen, Authoring Judge of Order		

**CALENDAR****Tuesday** MONTHLY COURT CASE CALENDAR*Mixed***20-Feb-2024** Department B; COURTROOM 2

10:00 AM	JAMES HEROLD, a married man acting for his sole a.....	20 mins.
	BROOKS-CLARK & ASSOCIATES, LLC, an Arizona limited.....	20 mins.
	SUZANNE M. BALLARD and J. DOE BALLARD, wife and hu.....	(none)
	TAMARA PRAY; husband and wife; DESERT MARTINI & TA.....	(none)

**54 PROCEEDING ENTRIES**

1. 15-May-2023 FILED: Index of Record, Notice of Appeal from Mohave County Superior Court filed 05/01/23

# Court of Appeals, Division One

## Civil Appeal

**1 CA-CV 23-0258**

**HEROLD v. PRAY, et al.**

### 54 PROCEEDING ENTRIES

2. 15-May-2023 FILED: e-Record on Appeal:  
Instruments/Minute Entries  
Digital Exhibits: Plaintiff Hearing Date 7/26/22 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 Defendants Pray et al. Hearing Date 11/22/22 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 Defendants Grabinskow et al. Hearing Date 12/7/22 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120 Defendants Ballard Hearing Date 12/9/22 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36
3. 15-May-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 22-May-2023 RECEIPT No.: 2023-00456 ; \$140.00, Check Number: #558252, Applied to: GEORGE GRABANSKI and J. DOE GRABANSKI, husband and - Class B Filing Fee (\$140.00) Paid for: - By Gust Rosenfeld PLC (Memo: Overpayment-Refund Needed)
5. 23-May-2023 RECEIPT No.: 2023-00460 ; \$280.00, Check Number: #558252, Applied to: GEORGE GRABANSKI and J. DOE GRABANSKI, husband and - Class B Filing Fee (\$140.00), Overpayment Class B (\$140.00) Paid for: - By Gust Rosenfeld PLC (Memo: Overpayment-Refund Needed X-Ref 2023-00456)
6. 23-May-2023 VOID RECEIPT No.: 2023-00456 - \$-140.00, Check Number: #558252, - Applied to: GEORGE GRABANSKI and J. DOE GRABANSKI, husband and - Class B Filing Fee (\$-140.00) Paid for: - By: Gust Rosenfeld PLC (Memo: Overpayment-Refund Needed) VOID Reason: X-Ref: 2023-00460. no overpayment receivable added prior. ala
7. 26-May-2023 RECEIPT No.: 2023-00473 ; \$280.00, Check Number: #141162, Applied to: JAMES HEROLD, a married man acting for his sole a - Class A Filing Fee (\$280.00) Paid for: - By Jaburg & Wilk PC
8. 30-May-2023 FILED: Notice of Appearance; Certificate of Service (Appellant)
9. 1-Jun-2023 FILED: Case Management Statement (Appellant)
10. 5-Jun-2023 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief Due
11. 7-Jun-2023 FILED: Motion for Procedural Order Re: First Motion for Extension to File Opening Brief; Certificate of Service (Appellant)
12. 8-Jun-2023 ORDERED: Motion for Procedural Order Re: First Motion for Extension to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Friday, 07-14-2023 to Monday, 08-14-2023. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
13. 9-Jun-2023 FILED: Notice of Payment of Filing Fee; Certificate of Service (Appellee Desert Martini LHC, Inc.)
14. 9-Jun-2023 FILED: Notice of Payment of Filing Fee; Certificate of Service of Notice of Payment of Filing Fee (Appellee Ballard)
15. 12-Jun-2023 FILED: Notice of Payment of Filing Fees; Certificate of Service (Appellee Pray)
16. 14-Jun-2023 RECEIPT No.: 2023-00519 ; \$140.00, Check Number: #6957, Applied to: TAMARA PRAY; husband and wife; DESERT MARTINI & TA - Class B Filing Fee (\$140.00) Paid for: Tamara Pray - By Law Office of Kenneth E Moyer PLLC
17. 15-Jun-2023 RECEIPT No.: 2023-00522 ; \$140.00, Authorization: #66003970384, Applied to: DESERT MARTINI LHC, INC. - Class B Filing Fee (\$140.00) Paid for: Stoops Denious Wilson & Murray PLC - By nCourt LLC
18. 15-Jun-2023 RECEIPT No.: 2023-00524 ; \$140.00, Authorization: #66003970384, Applied to: SUZANNE M. BALLARD and J. DOE BALLARD, wife and hu - Class B Filing Fee (\$140.00) Paid for: Engelman Berger PC - By nCourt LLC
19. 16-Jun-2023 RECEIPT No.: 2023-00530 ; \$140.00, Authorization: #67006112885, Applied to: TAMARA PRAY; husband and wife; DESERT MARTINI & TA - Overpayment Class B (\$140.00) Paid for: Kenneth E Moyer - By nCourt LLC (Memo: Refund Needed)
20. 19-Jun-2023 FILED: Notice of Payment of Filing Fee by Appellee Brooks-Clark & Associates; Certificate of Service Re: Notice of Payment of Filing Fee by Appellee Brooks-Clark & Associates (Appellee Brooks-Clark)
21. 23-Jun-2023 RECEIPT No.: 2023-00556 ; \$140.00, Authorization: # 74006196953, Applied to: BROOKS-CLARK & ASSOCIATES, LLC, an Arizona limited - Class B Filing Fee (\$140.00) Paid for: David W Smith - By nCourt LLC
22. 12-Jul-2023 FILED: Notice of Filing Transcript (Reporter's Transcript - 12/12/2022 - Court Trial-Day 1 (Kimberly M. Faehn)); Certificate of Service (Appellant)
23. 13-Jul-2023 FILED: Letter dated 07/13/2023 to Gust Rosenfeld PLC from Court re: enclosing check #113350 in the amount of \$140 for refund of monies submitted in error

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0258****HEROLD v. PRAY, et al.****54 PROCEEDING ENTRIES**

24.	13-Jul-2023	FILED: Letter dated 07/13/2023 to Kenneth Moyer from Court re: enclosing check #113367 in the amount of \$140 for refund of monies submitted in error
25.	14-Aug-2023	FILED: Opening Brief and Notice of Request for Attorney's Fees; Certificate of Compliance; Certificate of Service (Appellant)
26.	5-Sep-2023	FILED: Stipulated Motion for Procedural Order Extending Deadline to File Answering Brief; Certificate of Service (Appellees)
27.	5-Sep-2023	ORDERED: Stipulated Motion for Procedural Order Extending Deadline to File Answering Brief (Appellees) = GRANTED and extending the time to file all answering briefs from 09/25/2023 to 10/25/2023. 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.	25-Oct-2023	FILED: Answering Brief of Appellee/Defendant Brooks-Clark & Associates, LLC; Certificate of Compliance Re: Appellee/Defendant Brooks-Clark & Associates, LLC's Answering Brief; Certificate of Service Re: Notice of Appellee Brooks-Clark & Associates Filing of its Response Brief (Appellee Brooks-Clark)
29.	25-Oct-2023	FILED: Answering Brief of Appellees George Grabanski, Laurie McKim and Desert Martini LHC, Inc.; Certificate of Compliance; Certificate of Service (Appellees Grabanski, et al. and Desert Martini LHC, Inc.)
30.	25-Oct-2023	FILED: Certificate of Compliance (Duplicate); Certificate of Service (Duplicate) (Appellees Grabanski, et al. and Desert Martini LHC, Inc.)
31.	25-Oct-2023	FILED: Answering Brief of Thomas and Tamara Pray and Desert Martini & Tavern Corporation; Certificate of Compliance; Certificate of Service (Appellee Pray, et al.)
32.	26-Oct-2023	FILED: Appellee's Request for Oral Argument; Certificate of Service (Appellee Grabanski, McKim, and Desert Martini)
33.	27-Oct-2023	FILED: Answering Brief of Appellee Suzanne M. Ballard; Certificate of Compliance of Appellee Suzanne M. Ballard Re: Answering Brief; Certificate of Service of Appellee Suzanne M. Ballard's Answering Brief and Certificate of Compliance Re: Appellee Suzanne M. Ballard's Answering Brief (Appellee Ballard)
34.	27-Oct-2023	FILED: Notice of Correction to Table of Authorities to Appellee Suzanne M. Ballard Answering Brief; Certificate of Service of Notice of Correction to Table of Authorities to Appellee Suzanne M. Ballard Answering Brief (Appellee Ballard)
35.	14-Nov-2023	FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
36.	15-Nov-2023	FILED: Appellee Suzanne M. Ballard's Request for Oral Argument; Certificate of Service of Appellee Suzanne M. Ballard's Request for Oral Argument (Appellees Ballard)
37.	15-Nov-2023	FILED: Appellees Thomas and Tamara Pray's and Desert Martini & Tavern Corporation's Request for Oral Argument; Certificate of Service of Appellees Thomas and Tamara Pray's and Desert Martini & Tavern Corporation's Request for Oral Argument (Appellee Pray et al.)
38.	28-Nov-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
39.	8-Dec-2023	ORDERED: Appellee's Request for Oral Argument (Appellee Grabanski, McKim, and Desert Martini) and Appellee Suzanne M. Ballard's Request for Oral Argument (Appellees Ballard) and Appellees Thomas and Tamara Pray's and Desert Martini & Tavern Corporation's Request for Oral Argument (Appellee Pray et al.) = GRANTED.
40.	12-Dec-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
41.	21-Dec-2023	CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 2-20-24, 10:00 am, COURTROOM 2.
42.	29-Dec-2023	FILED: Notice of Oral Argument
43.	4-Jan-2024	FILED: Return Receipt Re Oral Argument, signed by (Scott A. Malm), on 01/02/2024 (Appellee)
44.	4-Jan-2024	FILED: Appellee Brooks-Clark & Associates, LLC's Unopposed Motion to Remove Aaron Green as a Counsel of Record for Appellee Brooks-Clark & Associates, LLC; Certificate of Service Re: Appellee Brooks-Clark & Associates, LLC's Unopposed Motion to Remove Aaron Green as a Counsel of Record for Appellee Brooks-Clark & Associates, LLC; Order Substituting Counsel for Defendant Brooks-Clark & Associates, LLC (Appellee)
45.	4-Jan-2024	FILED: Return Receipt Re Oral Argument, signed by David L. Allen, on 01/04/2024 (Appellant)
46.	5-Jan-2024	FILED: Return Receipt for Notice of Oral Argument, signed by David Smith on 01/02/2024 (Appellee Brooks-Clark)
47.	5-Jan-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Wade Burgeson on 01/02/2024 (Appellee Ballard)
48.	8-Jan-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Kenneth Moyer on 12/30/2023 (Appellee Pray, et al.)

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 23-0258**

**HEROLD v. PRAY, et al.**

**54 PROCEEDING ENTRIES**

49.	10-Jan-2024	ORDERED: Appellee Brooks-Clark & Associates, LLC's Unopposed Motion to Remove Aaron Green as a Counsel of Record for Appellee Brooks-Clark & Associates, LLC (Appellee) = GRANTED and substituting David Smith of the Law Office of David Smith as counsel of record for Brooks-Clark & Associates, LLC. Hon Andrew M Jacobs - Author
50.	14-Feb-2024	FILED: Request for Physical Accommodation at Oral Argument; Certificate of Service (Appellant)
51.	14-Feb-2024	FILED: Re: Request for Physical Accommodation at Oral Argument; Certificate of Service (Appellant)
52.	14-Feb-2024	ORDERED: Request for Physical Accommodation at Oral Argument (Appellant) = GRANTED. Hon Andrew M Jacobs - Author
53.	20-Feb-2024	FILED: Supplemented Superior Court e-Record with Revised Index of Record
54.	22-Feb-2024	FILED: Sign-in Sheet/Case is Under Advisement as of 02/20/2024