

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0636****IVEY, et al. v. CAPTIVA, et al.****Appellate Case Information**

Case Filed: 11-Oct-2023

Case Closed:

**Dept/Composition****Department B**Hon. Andrew M Jacobs  
Hon. Jennifer M Perkins  
Hon. David D Weinzwieg**Side 1. KENNETH IVEY AND CYNTHIA IVEY, husband and wife; KENNETH R. IVEY and CYNTHIA C. IVEY as Trustees of The Ivey Family Living Trust dated July 23, 2008, Plaintiff/Appellant****(Litigant Group) KENNETH IVEY, et al.**

- Kenneth Ivey
- Cynthia Ivey
- The Ivey Family Living Trust

**Attorneys for: Plaintiffs/Appellants**

J Jeffrey Coughlin, Esq. (AZ Bar No. 13801)

**Side 2. CAPTIVA INVESTMENTS III, LLC, an Arizona limited liability company; PHILLIP L. STEWART and KATHLEEN STEWART, Trustees of the Phillip and Kathleen Stewart Revocable Trust, Defendant/Appellee****(Litigant Group) CAPTIVA INVESTMENTS III, LLC**

- Captiva Investments III LLC

**Attorneys for: Defendant/Appellee Captiva**Robert C Kozak, Esq. (AZ Bar No. 6699)  
William Pietragallo, II, Esq. (AZ Bar No. 016413)  
Michael O Bethune, Esq. (PA Bar No. 332148)**(Litigant Group) PHILLIP L. STEWART, et al.**

- Phillip L Stewart
- Kathleen B Stewart
- Phillip and Kathleen Stewart Revocable Trust

**Attorneys for: Defendants/Appellees Stewart**Mark W Drutz, Esq. (AZ Bar No. 6772)  
Jeffrey Gautreaux, Esq. (AZ Bar No. 28104)**CASE STATUS**

May 21, 2024....Under Advisement

Nov 21, 2023....Reinstated Case

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
YAV P1300CV201801126	Injunctive Relief Conversion		John David Napper, Authoring Judge of Order		
YAV P1300CV201901051					
YAV P1300CV202000967					

**CALENDAR**

<b>Tuesday</b>	MONTHLY COURT CASE CALENDAR	Mixed
<b>21-May-2024</b>	<b>Department B; COURTROOM 2</b>	
10:45 AM	KENNETH IVEY, et al.....	20 mins.
	CAPTIVA INVESTMENTS III, LLC.....	20 mins.
	PHILLIP L. STEWART, et al.....	(none)

**2 PENDING MATTERS****General Motion**

Filed: 18-Jan-2024

*\* Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Motion to Strike Appellants' Supplemental Citation of Legal Authority (Appellees Stewart)***General Motion**

Filed: 24-Jan-2024

*\* Joinder in Defendants/Appellees Phillip L. Stewart, Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of The Phillip and Kathleen Stewart Revocable Trust's Motion to Strike Appellants' Supplemental Citation of Legal Authority (Appel***48 PROCEEDING ENTRIES**

1. 11-Oct-2023 FILED: Index of Record, Notice of Appeal from Yavapai County Superior Court filed 09/13/23

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0636****IVEY, et al. v. CAPTIVA, et al.****48 PROCEEDING ENTRIES**

2. 11-Oct-2023 FILED: e-Record on Appeal: (P1300CV201801126)  
Instruments/Minute Entries  
Exhibits: Hearing Date 1/9/19 1, 2, 4, 5, 7, 8, 9, 11, 12
3. 11-Oct-2023 FILED: e-Record on Appeal: (P1300CV201901051)  
Instruments/Minute Entries  
Exhibits: None
4. 11-Oct-2023 FILED: Record on Appeal:(P1300CV202000967)  
Instruments/Minute Entries  
Exhibits: None
5. 12-Oct-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
6. 23-Oct-2023 FILED: Notice of Payment of Required Filing Fee; Certificate of Service of Notice of Payment of Required Filing Fee (Appellant)
7. 27-Oct-2023 RECEIPT No.: 2023-01014 ; \$280.00, Authorization: 00011066464, Applied to: KENNETH IVEY, et al. - Class A Filing Fee (\$280.00) Paid for: J Jeffrey Coughlin PLLC - By nCourt LLC
8. 31-Oct-2023 FILED: Appellate Clerk Notice re: Appellee's Fee's; Appellant's Brief/Case Management Statement Due
9. 31-Oct-2023 FILED: Notice of Payment of Defendant/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Filing Fee; Certificate of Service and Filing (Appellee Stewart)
10. 1-Nov-2023 FILED: Case Management Statement; Certificate of Service of Appellants' Case Management Statement (Appellant)
11. 3-Nov-2023 FILED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Statement Correcting Appellants' Case Management Statement; Certificate of Service and Filing (Appellee Stewart)
12. 3-Nov-2023 ORDERED: (per Sorensen v. Farmers) staying appeal until 12/04/2023. Signed order with certification of finality pursuant to Rule 54(c) due within 10 days after its entry. If appeal reinstated by filing of signed order, opening brief due 01/03/2024. Melina Brill ProTem Judge - Author  
  
[vacated per order filed 11/07/2023]
13. 6-Nov-2023 RECEIPT No.: 2023-01043 ; \$140.00, Authorization: #10019655069, Applied to: PHILLIP L. STEWART, et al. - Class B Filing Fee (\$140.00) Paid for: Musgrove Drutz Kack & Gautreaux, PC - By nCourt LLC
14. 6-Nov-2023 FILED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Motion to Reinstate Appeal; Certificate of Service and Filing (Appellee Stewart)
15. 7-Nov-2023 ORDERED: Vacating the 11/03/2023 order staying this appeal. FURTHER ORDERED: Appellants shall file a response to the motion to reinstate by 11/20/2023. The court will address the briefing schedule when it rules on the motion to reinstate. Melina Brill ProTem Judge - Author
16. 8-Nov-2023 FILED: Notice of Payment of Defendant/Appellee Captiva Investments III, LLC's Filing Fee; Certificate of Service and Filing (Appellee Captiva)
17. 8-Nov-2023 FILED: Joinder in Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of The Phillip and Kathleen Revocable Trust's Statement Correcting Appellants' Case Management Statement; Certificate of Service and Filing (Appellee Captiva)
18. 9-Nov-2023 FILED: Notice of Filing Reporter's Transcript of February 28, 2023 Hearing (Reporter's Transcript - 02/28/2023 - Oral Argument (Laura Ashbrook)); Certificate of Service of Notice of Filing Reporter's Transcript of February 28, 2023 Hearing (Appellant)
19. 14-Nov-2023 RECEIPT No.: 2023-01064 ; \$140.00, Authorization: # 18015279088, Applied to: CAPTIVA INVESTMENTS III, LLC - Class B Filing Fee (\$140.00) Paid for: Robert C Kozak PLLC - By nCourt, LLC
20. 20-Nov-2023 FILED: Appellants' Response to Motion to Reinstate Appeal; Appellants' Certificate of Service on their Response to Motion to Reinstate Appeal (Appellants)
21. 21-Nov-2023 ORDERED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Motion to Reinstate Appeal (Appellee Stewart) = GRANTED and reinstating this appeal. FURTHER ORDERED: The opening brief is due on 12/22/2023. If the opening brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0636****IVEY, et al. v. CAPTIVA, et al.****48 PROCEEDING ENTRIES**

22.	22-Dec-2023	FILED: Appellant's Opening Brief (as to Defendant Appellees Captiva and Stewart); Certificate of Compliance (as to Defendant Appellees Captiva and Stewart); Certificate of Service of Appellants' Opening Brief (as to Defendant Appellees Captiva and Stewart) (Appellant)
23.	22-Dec-2023	FILED: Certificate of Compliance (as to Defendant Appellees Captiva and Stewart) (Duplicate); Certificate of Service on Certificate of Compliance (as to Defendant Appellees Captiva and Stewart) (Appellant)
24.	22-Dec-2023	FILED: Request for Oral Argument; Certificate of Service of Request for Oral Argument (Appellant)
25.	11-Jan-2024	FILED: Supplementation of Citation of Legal Authority (ARCAP Rule 17) (as to Appellees Captiva and Stewart); Certificate of Service on Supplemental Citation of Legal Authority (as to Defendant Appellees Captiva and Stewart) (Appellant)
26.	18-Jan-2024	FILED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Motion to Strike Appellants' Supplemental Citation of Legal Authority; Certificate of Service and Filing (Appellees Stewart)
27.	24-Jan-2024	FILED: Joinder in Defendants/Appellees Phillip L. Stewart, Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of The Phillip and Kathleen Stewart Revocable Trust's Motion to Strike Appellants' Supplemental Citation of Legal Authority; Certificate of Service and Filing (Appellee Captiva)
28.	30-Jan-2024	FILED: Appellee Captiva Investments III, LLC's Response Brief (Answering Brief); Certificate of Compliance; Certificate of Service of Appellee Captiva Investments III, LLC's Response Brief; Certificate of Service on Certificate of Compliance (Appellee Captiva)
29.	30-Jan-2024	FILED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Answering Brief; Certificate of Compliance; Certificate of Service and Filing (Appellee Stewart)
30.	5-Feb-2024	FILED: Response to Appellees' Motion to Strike Appellants' Supplemental Citation of Legal Authority; Certificate of Service on Response to Appellees' Motion to Strike Appellants' Supplemental Citation of Legal Authority (Appellant)
31.	8-Feb-2024	FILED: Defendants/Appellees Philip L. Stewart and Kathleen B. Stewart, Trustees of the Philip and Kathleen Revocable Trust's Reply to Motions to Strike Appellants' Supplemental Citation of Legal Authority and Response to Motion to Amend Opening Brief; Certificate of Service and Filing (Appellee Stewart)
32.	9-Feb-2024	ORDERED: Deferring a ruling on the motion (Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart, Trustees of the Phillip and Kathleen Revocable Trust's Motion to Strike Appellants' Supplemental Citation of Legal Authority) to the panel that considers this appeal on the merits. Melina Brill ProTem Judge - Author
33.	20-Feb-2024	FILED: Appellants' Reply to Response Briefs (as to Appellees Captiva and Stewart); Certificate of Compliance on Appellants' Reply to Response Briefs (as to Appellees Captiva and Stewart); Certificate of Service on Appellants' Reply to Response Briefs (as to Appellees Captiva and Stewart) (Appellant)
34.	20-Feb-2024	FILED: Certificate of Compliance on Appellants' Reply to Response Briefs (as to Appellees Captiva and Stewart) (Duplicate); Certificate of Compliance on Appellants' Reply to Response Briefs (as to Appellees Captiva and Stewart) (Duplicate) (Appellant)
35.	4-Mar-2024	FILED: Motion to Associate Counsel Pro Hac Vice; Certificate of Service and Filing (Appellee Captiva)
36.	5-Mar-2024	ORDERED: Motion to Associate Counsel Pro Hac Vice (Appellee Captiva) = GRANTED and permitting attorney Michael O. Bethune of Pietragallo Gordon Alfano Bosick & Raspanti, LLP, to appear pro hac vice as co-counsel for appellee Captiva Investments III, LLC, with Robert C. Kozak of Robert C. Kozak, PLLC, as local counsel. Melina Brill ProTem Judge - Author
37.	13-Mar-2024	ORDERED: Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
38.	26-Mar-2024	CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 5-21-24, 10:45 am, COURTROOM 2.
39.	27-Mar-2024	FILED: Notice of Oral Argument
40.	27-Mar-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Robert Kozak on 03/27/2024 (Appellee Captiva)
41.	28-Mar-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Mark Drutz on 03/27/2024 (Appellee Stewart)
42.	1-Apr-2024	FILED: Return Receipt for Notice of Oral Argument, signed by J. Jeffrey Coughlin on 03/27/2024 (Appellant)
43.	10-Apr-2024	FILED: Defendants/ Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart Trustees of the Phillip and Kathleen Revocable Trust's Motion for Extended Oral Argument; Certificate of Service and Filing (Appellees Stewart)
44.	10-Apr-2024	FILED: Certificate of Service and Filing (Duplicate) (Appellees Stewart)

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 23-0636**

**IVEY, et al. v. CAPTIVA, et al.**

**48 PROCEEDING ENTRIES**

- |     |             |   |
|-----|-------------|---|
| 45. | 22-Apr-2024 | ORDERED: Defendants/Appellees Phillip L. Stewart and Kathleen B. Stewart and Phillip Stewart and Kathleen Stewart Trustees of the Phillip and Kathleen Revocable Trust's Motion for Extended Oral Argument (Appellees Stewart) = DENIED. Hon Andrew M Jacobs - Author |
| 46. | 13-May-2024 | FILED: Return Receipt for Notice of Oral Argument, signed by Michael Bethune on 03/27/2024 (Appellee Captiva)   |
| 47. | 21-May-2024 | FILED: Sign-in Sheet/Case is Under Advisement as of 05/21/2024  |
| 48. | 22-May-2024 | FILED: Defendants/Appellees Stewart's Supplemental Citation of Authority; Certificate of Service and Filing (Appellee)  |