

# Court of Appeals, Division One

## Civil Appeal

# 1 CA-CV 24-0114

# WHITMER, et al. v. HILTON CASITAS

### Appellate Case Information

Case Filed: 21-Feb-2024

Case Closed:

### Dept/Composition

Consolidated with:

1 CA-CV 24-0095

1 CA-CV 24-0108

1 CA-CV 24-0110

### Side 1. R. L. WHITMER, et al., Plaintiff/Appellant

(Litigant Group) R. L. WHITMER, et al.

• R L Whitmer

PRO SE

• Colleen London

PRO SE

### Side 2. HILTON CASITAS COUNCIL OF HOMEOWNERS, Defendant/Appellee

(Litigant Group) HILTON CASITAS COUNCIL OF HOMEOWNERS

• Hilton Casitas Council of Homeowners

#### Attorneys for: Defendant/Appellee

R Corey Hill, Esq. (AZ Bar No. 12188)

Ginette M Hill, Esq. (AZ Bar No. 18272)

Christopher Robbins, Esq. (AZ Bar No. 11064)

### Side 3. PROCACCIANTI AZ II, LP, a Delaware limited partnership, Intervenor

(Litigant Group) PROCACCIANTI AZ II, LP, a Delaware limited partnership

• Procaccianti AZ II LP

#### Attorneys for: Intervenor

Andrew M Federhar, Esq. (AZ Bar No. 6567)

Jessica Anne Gale, Esq. (AZ Bar No. 30583)

### PREDECESSOR CASE(S)

MAR CV2014-054346

### Cause/Charge/Class

Breach of Contract

### Judgment/Sentence

### Judge, Role <Comments>

Melissa Iyer Julian,  
Authoring Judge of Order

### Trial

### Dispo

### OPEN DUE DATE

#### Opening Brief due

Due By:

Tuesday, August 27, 2024

Re: FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due

### CASE DECISION

28-Mar-2024 ORDER

\*\*\*Vacated\*\*\*

\* ORDERED: Dismissing this appeal. FURTHER ORDERED: Procedural Combined Motion to Consolidate 1 CA-CV 24-0108, 1 CA-CV 24-0110, 1 CA-CV 24-0114 with 1 CA-CV 24-00095 = DENIED. FURTHER ORDERED: Defendant Hilton Casitas' Joinder in Motion to Consolidate App

Filed: 28-Mar-2024

Mandate:

Decision Disposition

**Dismissed**

David Gass.....Author

### 28 PROCEEDING ENTRIES

- 21-Feb-2024 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 01/22/24
- 21-Feb-2024 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
- 26-Feb-2024 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
- 5-Mar-2024 RECEIPT No.: 2024-00218 ; \$280.00, Authorization: #65007339184, Applied to: R. L. WHITMER, et al. - Class A Filing Fee (\$280.00) Paid for: R. L. WHITMER, et al. - By nCourt LLC
- 5-Mar-2024 FILED: Case Management Statement; Certificate of Service - Case Management Statement (Appellant)

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 24-0114****WHITMER, et al. v. HILTON CASITAS****28 PROCEEDING ENTRIES**

6. 11-Mar-2024 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief Due
7. 11-Mar-2024 FILED: Settlement Conference Program Notice
8. 11-Mar-2024 FILED: Procedural Combined Motion to Consolidate 1 CA-CV 24-0108, 1 CA-CV 24-0110, 1 CA-CV 24-0114 with 1 CA-CV 24-00095 [sic] (Appellants Pro Per)
9. 11-Mar-2024 FILED: Combined Acceptance of the Court of Appeals' Settlement Conference Program (Appellants Pro Per)
10. 12-Mar-2024 FILED: Notice of Appellee's Filing Fee for Hilton Casitas Council of Homeowners; Certificate of Service (Appellee)
11. 15-Mar-2024 FILED: Procaccianti's Joinder in Appellants [sic] Motion to Consolidate 1-CA-CV-0108, 1-CA-CV-24-0110 and 1-CA-CV-0114 with 1-CA-CV-0095; Certificate of Service of Procaccianti's Joinder in Appellants [sic] Motion to Consolidate 1-CA-CV-0108, 1-CA-CV-24-0110 and 1-CA-CV-0114 with 1-CA-CV-0095 (Appellee Procaccianti)
12. 18-Mar-2024 RECEIPT No.: 2024-00265 ; \$140.00, Authorization: #78012422198, Applied to: HILTON CASITAS COUNCIL OF CO-OWNERS - Class B Filing Fee (\$140.00) Paid for: Hill Hall & DeCiancio PLC - By nCourt LLC
13. 18-Mar-2024 FILED: Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals and Motion to Correct Caption in Appeals; Certificate of Service - Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals -and Motion to Correct Caption in Appeals (Appellee)
14. 20-Mar-2024 FILED: Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee; Certificate of Service of Procaccianti AZ II, L.P.'s Notice of Payment of Filing Fee (Appellee Procaccianti)
15. 25-Mar-2024 RECEIPT No.: 2024-00294 ; \$140.00, Authorization: 85012795323, Applied to: PROCACCIANTI AZ II, LP, a Delaware limited partner - Class B Filing Fee (\$140.00) Paid for: Spencer Fane LLP - By nCourt LLC
16. 25-Mar-2024 FILED: Reply to Joinder to the Motion to Consolidate 1 CA-CV 24-0108, 1 CA-CV 24-0110, 1 CA-CV 24-0114, with 1 CA-CV 24-00095 and Response to Motion to Correct Caption in Appeals (Appellant Pro Per)
17. 28-Mar-2024 ORDERED: Dismissing this appeal. FURTHER ORDERED: Procedural Combined Motion to Consolidate 1 CA-CV 24-0108, 1 CA-CV 24-0110, 1 CA-CV 24-0114 with 1 CA-CV 24-00095 = DENIED. FURTHER ORDERED: Defendant Hilton Casitas' Joinder in Motion to Consolidate Appeals and Motion to Correct Caption in Appeals (Appellee) = GRANTED and amending the caption in this appeal by changing appellee from "Hilton Casitas Council of Co-Owners" to "Hilton Casitas Council of Homeowners." Hon David B Gass - Author
18. 2-Apr-2024 FILED: Combined Motion to Reinstate 1 CA-CV 24-0108 and 1 CA-CV 24-0114 (Appellants Pro Per)
19. 8-Apr-2024 ORDERED: Any response (to the Combined Motion to Reinstate 1 CA-CV 24-0108 and 1 CA-CV 24-0114) is due by 04/22/2024. Melina Brill ProTem Judge - Author
20. 15-Apr-2024 FILED: Procaccianti Az II, L.P.'S Response to Combined Motion to Reinstate 1-CA-CV-24-0108 and 1-CA-CV-24-0114; Certificate of Service of Procaccianti Az II, L.P.'S Response to Combined Motion to Reinstate 1-CA-CV-24-0108 and 1-CA-CV-24-0114 (Intervenor)
21. 17-Apr-2024 FILED: Defendant Hilton Casitas' Response to Motions to Reinstate in No. 1 CA-CV 24-0095, No. 1 CA-CV 24-0108, and No. 1 CA-CV 24-0114; Certificate of Service for Defendant Hilton Casitas' Response to Motions to Reinstate No. 1 CA-CV 24-0095, No. 1 CA-CV 24-0108, and No. 1 CA-CV 24-0114 (Defendant/Appellee)
22. 19-Apr-2024 FILED: Reply in Support of Combined Motion to Reinstate 1 CA-CV 24-0108 and 1 CA-CV 24-0114 (Appellants Pro Per)
23. 29-Apr-2024 ORDERED: Directing the superior court to determine whether the record is accurate and whether any documents are missing. In issuing this order, this court expresses no opinion on the accuracy of the record. FURTHER ORDERED: Within 5 days from the date of this order, appellants shall file a motion in the superior court with this order attached, requesting a ruling regarding the accuracy of the record. FURTHER ORDERED: The superior court may in its discretion hold an evidentiary hearing and may direct the parties to file any motions or documents it deems necessary to determine the accuracy of the record. FURTHER ORDERED: Within 5 days after the superior court issues a ruling, appellants must file a notice with this court with the ruling attached. Upon receipt of the superior court's ruling, this court will rule on the motion to reinstate. FURTHER ORDERED: Directing appellants to file written notice with this court of the status of the superior court proceedings by 05/29/2024. FURTHER ORDERED: Amending the caption and docket in this appeal by adding Procaccianti AZ II, L.P. as an intervenor. All future documents filed in this appeal must use the caption shown on this order. Hon David B Gass - Author
24. 28-May-2024 FILED: Notice of Status of Superior Court Proceedings [sic] (Appellants Pro Per)
25. 3-Jun-2024 ORDERED: Continuing the stay of this appeal. FURTHER ORDERED: Directing appellants to file written notice with this court of the status of the superior court proceedings by 06/28/2024. Melina Brill ProTem Judge - Author
26. 16-Jul-2024 FILED: Notice of Superior Court Recently Filed Orders Correcting the Record in CV2014-054346 and CV2016-050379 (Appellants Pro Per)

**Court of Appeals, Division One**

**Civil Appeal**

**1 CA-CV 24-0114**

**WHITMER, et al. v. HILTON CASITAS**

**28 PROCEEDING ENTRIES**

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| 27. | 18-Jul-2024 | FILED: Supplemented Superior Court e-Record with Revised Index of Record  |
| 28. | 19-Jul-2024 | ORDERED: Motion to Reinstate the Appeal of 1 CA-CV 24-0095 (Appellants); Combined Motion to Reinstate 1 CA-CV 24-0108 and 1 CA-CV 24-0114 (Appellants Pro Per) = GRANTED and reinstating appeals 1 CA-CV 24-0095, 1 CA-CV 24-0108, and 1 CA-CV 24-0114. FURTHER ORDERED: vacating the 3/28/24 orders dismissing 1 CA-CV 24-0095, 1 CA-CV 24-0108, and 1 CA-CV 24-0114. FURTHER ORDERED: consolidating appeals 1 CA-CV 24-0095, 1 CA-CV 24-0108, 1 CA-CV 24-0110, and 1 CA-CV 24-0114. FURTHER ORDERED: lifting the stay of this consolidated appeal. FURTHER ORDERED: requiring appellants file case management statements by 7/31/24. FURTHER ORDERED: requiring appellants file opening briefs by 8/27/24. If appellants do not file opening briefs timely, the court will dismiss the consolidated appeal. Hon David B Gass - Author |