

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-16-0178-PR

MARIKA DELGADO et al v MANOR CARE OF TUCSON et al

Appellate Case Information

Case Filed: 28-Jul-2016
Case Closed:

Dept/Composition

En Banc

Hon. Scott Bales
Hon. John Pelander
Hon. Robert M. Brutinel
Hon. Ann A. Scott Timmer
Hon. Clint Bolick
Hon. Andrew W. Gould
Hon. John R. Lopez

Side 1. MARIKA DELGADO, PERSONAL REPRESENTATIVE OF THE ESTATE OF SANDRA SHAW, ON BEHALF OF THE ESTATE OF SANDRA SHAW, DECEASED; AND MARIKA DELGADO, PERSONAL REPRESENTATIVE, FOR AND ON BEHALF OF SANDRA SHAW'S STATUTORY BENEFICIARIES AND/OR ESTATE PURSUANT TO A.R.S. § 12-612(A), , Plaintiff/Appellant

(Litigant Group) MARIKA DELGADO, PERSONAL REPRESENTATIVE OF THE ESTATE OF SANDRA SHAW, ON BEHALF OF THE ESTATE OF SANDRA SHAW, DECEASED; AND MARIKA DELGADO, PERSONAL REPRESENTATIVE, FOR AND ON BEHALF OF SANDRA SHAW'S STATUTORY BENEFICIARIES AND/OR ESTATE PURSUANT TO A.R.S. § 12-612(A),

- Marika Delgado, Personal Representative
- PLACEHOLDER: Estate of Sandra Shaw
- PLACEHOLDER: Sandra Shaw's Statutory Beneficiaries and/or Estate Pursuant to A.R.S. 12-612(A)

Attorneys for: Plaintiff/Appellant

Scott E Boehm, Esq. (AZ Bar No. 6603)
Melanie L Bossie, Esq. (AZ Bar No. 22825)
Mary E Spiece, Esq. (AZ Bar No. 11058)

(Litigant Group) JUSTICE/ARIZONA TRIAL LAWYERS ASSOCIATION

- Arizona Association for Justice, Amicus Curiae
- Arizona Trial Lawyers Association, Amicus Curiae

Attorneys for: Amicus Curiae

David L Abney, Esq. (AZ Bar No. 9001)
Stanley G Feldman, Esq. (AZ Bar No. 838)

Side 2. MANOR CARE OF TUCSON, AZ, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, DBA MANOR CARE HEALTH SERVICES, INC. AKA MANORCARE HEALTH SERVICES, LLC; HCR MANORCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; MANOR CARE, INC., A DELAWARE CORPORATION; HCR MANORCARE, INC., A DELAWARE CORPORATION; HCR IV HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR III HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR II HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCRMC OPERATIONS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR MANORCARE OPERATIONS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HEARTLAND EMPLOYMENT SERVICES, LLC, AN OHIO LIMITED LIABILITY COMPANY; WILLIAM AMOUREUX, ADMINISTRATOR; , Defendant/Appellee

(Litigant Group) MANOR CARE OF TUCSON, AZ, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, DBA MANOR CARE HEALTH SERVICES, INC. AKA MANORCARE HEALTH SERVICES, LLC; HCR MANORCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; MANOR CARE, INC., A DELAWARE CORPORATION; HCR MANORCARE, INC., A DELAWARE CORPORATION; HCR IV HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR III HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR II HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR HEALTHCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCRMC OPERATIONS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HCR MANORCARE OPERATIONS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY; HEARTLAND EMPLOYMENT SERVICES, LLC, AN OHIO LIMITED LIABILITY COMPANY; WILLIAM AMOUREUX, ADMINISTRATOR

- Manor Care of Tucson AZ LLC
- Manor Care Health Services Inc
- HCR Manorcare LLC
- HCR ManorCare Inc
- HCR IV Healthcare LLC
- HCR III Healthcare LLC
- HCR II Healthcare LLC
- HCR Healthcare LLC
- HCRMC Operations LLC
- HCR Manorcare Operations II LLC
- Heartland Employment Services LLC
- William Amoureux
- Manorcare Health Services LLC
- Manor Care Inc

Attorneys for: Defendants/Appellees

James W Kaucher, Esq. (AZ Bar No. 9154)
Danielle Constant, Esq. (AZ Bar No. 21852)

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Side 3. IPC THE HOSPITALIST COMPANY INC., A DELAWARE CORPORATION/GORDON J. CUZNER, M.D., Defendant/Appellee
(Litigant Group) IPC THE HOSPITALIST COMPANY INC., A DELAWARE CORPORATION/GORDON J. CUZNER, M.D.

- IPC The Hospitalist Company Inc
- Gordon J Cuzner

Attorneys for: Defendants/Appellees
Anne M Fulton-Cavett, Esq. (AZ Bar No. 16502)

CASE STATUS

Jan 24, 2017....Submitted	Dec 13, 2016....At Issue
Dec 13, 2016....Oral Argument Granted	Jul 28, 2016.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
2 CA 2 CA-CV 15-0187					
↳ PIM C20136560			Richard S Fields, Trial Comments: (none)		

32 PROCEEDING ENTRIES

1. 28-Jul-2016 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Appellees Manor Care of Tucson et al)
2. 28-Jul-2016 FILED: Appendix to the Manor Care Appellees' Petition for Review; Certificate of Service (Appellees Manor Care of Tucson et al)
3. 28-Jul-2016 FILED: Record from CofA: Link to Electronic Record
4. 28-Jul-2016 FILED: Joinder of Defendants/Appellees Gordon J. Cuzner, MD, and IPC The Hospitalist Company, Inc. in Manor Care Defendants/Appellees' Petition for Review; Certificate of Service (Joinder of Defendants/Appellees Gordon J. Cuzner, MD, and IPC The Hospitalist Company, Inc. in Manor Care Defendants/Appellees' Petition for Review) (Appellees IPC The Hospitalist Company Inc/Cuzner)
5. 1-Aug-2016 RECEIPT No.: ASC2016-00686 ; \$280.00, Authorization: 14001275593, Applied to: * MANOR CARE OF TUCSON, AZ, LLC, AN ARIZONA LIMITE - Class A Filing Fee (\$280.00) Paid for: * MANOR CARE OF TUCSON, AZ, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, DBA MANOR CARE HEALTH SERVICES, INC. AKA MANORCARE HEALTH SERVICES, LLC; HCR MANORCARE, LLC, A DELAWARE LIMITED LIABILITY COMPANY; MANOR CARE, INC., A DELAWARE CORPORATION; HCR MANORCA - By Intresys Inc (Memo: Formset No 1878737)
6. 1-Aug-2016 RECEIPT No.: ASC2016-00689 ; \$280.00, Authorization: 14001275593, Applied to: IPC THE HOSPITALIST COMPANY INC., A DELAWARE CORPO - Class A Filing Fee (\$280.00) Paid for: IPC THE HOSPITALIST COMPANY INC., A DELAWARE CORPORATION/GORDON J. CUZNER, M.D. - By Intresys Inc (Memo: Formset No 1879245)
7. 30-Aug-2016 FILED: Unopposed Motion for Procedural Order Extending the Time to File a Response to Petition for Review; Certificate of Service to Unopposed Motion for Procedural Order Extending the Time to File a Response to Petition for Review (Appellant Delgado)
8. 31-Aug-2016 A "Unopposed Motion for Procedural Order Extending the Time to File a Response to Petition for Review" (Appellant Delgado) having been filed on August 30, 2016,

IT IS ORDERED granting a first extension of time to file the Response to Petition for Review on or before September 15, 2016. No further extensions of time shall be granted absent extraordinary circumstances. (Janet Johnson, Clerk)
9. 15-Sep-2016 FILED: Plaintiff's Response to Petition for Review; Certificate of Service for Plaintiff's Response to Petition for Review; Certificate of Compliance for Plaintiff's Response to Petition for Review (Appellant Delgado)
10. 20-Sep-2016 RECEIPT No.: ASC2016-00866 ; \$140.00, Authorization: 63019491661, Applied to: * MARIKA DELGADO, PERSONAL REPRESENTATIVE OF THE E - Class B Filing Fee (\$140.00) Paid for: * MARIKA DELGADO, PERSONAL REPRESENTATIVE OF THE ESTATE OF SANDRA SHAW, ON BEHALF OF THE ESTATE OF SANDRA SHAW, DECEASED; AND MARIKA DELGADO, PERSONAL REPRESENTATIVE, FOR AND ON BEHALF OF SANDRA SHAW'S STATUTORY BENEFICIARIES AND/OR ESTATE PURSUANT TO A.R - By Intresys Inc (Memo: Form Set No. 1933488)
11. 19-Oct-2016 FILED: Notice of Change of Address; Certificate of Service for Notice of Change of Address (Appellant Delgado)
12. 13-Dec-2016 ORDERED: Petition for Review = GRANTED as to Issue 1 only.

FURTHER ORDERED: The case shall be set for oral argument.

FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, on or before January 10, 2017.

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13. 15-Dec-2016 FILED: Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Brief; Certificate of Service for Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Brief
14. 16-Dec-2016 NOTICE OF ORAL ARGUMENT: Set for Tuesday, January 24, 2017, at 10:45 A.M. [twenty minutes (20) per side]
15. 16-Dec-2016 FILED: Amended Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Brief; Certificate of Service for Amended Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Brief
16. 16-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (James W. Kaucher will argue) (Appellees Manor Care of Tucson et al)
17. 16-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Scott E. Boehm will argue) (Appellant Delgado)
18. 16-Dec-2016 A "Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Briefs" and an "Amended Joint Motion by All Parties for a Procedural Order Extending Their Time to File Simultaneous Supplemental Briefs" were filed by Appellant Delgado. After consideration,

IT IS ORDERED granting the motion.

IT IS FURTHER ORDERED the parties supplemental briefs shall be due on or before January 17, 2017. (Hon. Scott Bales)
19. 19-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Anne M. Fulton-Cavett will argue) (Appellees IPC the Hospitalist Company Inc/Cuzner)
20. 3-Jan-2017 SENT: Letter to counsel re: parking at Oral Argument
21. 17-Jan-2017 FILED: Supplemental Brief of Plaintiff; Certificate of Service for Supplemental Brief of Plaintiff; Certificate of Compliance for Supplemental Brief of Plaintiff (Appellant Delgado)
22. 17-Jan-2017 FILED: Supplemental Brief of Appellees Manor Care of Tucson, AZ, LLC, et al; Certificate of Service of Manor Care Appellees' Supplemental Brief; Certificate of Compliance (Appellees Manor Care of Tucson et al)
23. 17-Jan-2017 FILED: Certificate of Compliance; Certificate of Service of Manor Care Appellees' Supplemental Brief (Appellees Manor Care of Tucson et al)
24. 17-Jan-2017 FILED: Joinder of Defendants/Appellees Gordon J. Cuzner, MD, and IPC the Hospitalist Company, Inc. in Manor Care Defendants/Appellees' Supplemental Brief in Support of Petition for Review; Certificate of Service (Appellees IPC the Hospitalist Company Inc/Cuzner)
25. 20-Jan-2017 FILED: Manor Care Appellees' Objection to the Appellant's Supplemental Brief; Certificate of Service of Manor Care Appellees' Objection to Appellant's Supplemental Brief (Appellees Manor Care of Tucson et al)
26. 20-Jan-2017 FILED: Certificate of Compliance; (Duplicate) Certificate of Service of Manor Care Appellees' Objection to Appellant's Supplemental Brief (Appellees Manor Care of Tucson et al)
27. 20-Jan-2017 FILED: Amicus Curiae Brief of the Arizona Association for Justice/Arizona Trial Lawyers Association; Certificate of Service for Amicus Curiae Brief of the Arizona Association for Justice/Arizona Trial Lawyers Association; Certificate of Compliance for Amicus Curiae Brief of the Arizona Association for Justice/Arizona Trial Lawyers Association (Amici Arizona Association for Justice/Arizona Trial Lawyers Association)
28. 20-Jan-2017 FILED: Motion of the Arizona Association for Justice/Arizona Trial Lawyers Association for Leave to File Amicus Curiae Brief; Certificate of Service for Motion of the Arizona Association for Justice/Arizona Trial Lawyers Association for Leave to File Amicus Curiae Brief (Amici Arizona Association for Justice/Arizona Trial Lawyers Association)
29. 20-Jan-2017 FILED: (Duplicate) Motion of the Arizona Association for Justice/Arizona Trial Lawyers Association for Leave to File Amicus Curiae Brief (Amici Arizona Association for Justice/Arizona Trial Lawyers Association)
30. 20-Jan-2017 FILED: Joinder of Defendants/Appellees Gordon J. Cuzner, MD, and IPC the Hospitalist Company, Inc. in Manor Care Defendants/Appellees' Objection to Portions of the Estate's Supplemental Brief; Certificate of Service (Joinder of Defendants/Appellees Gordon J. Cuzner, MD, and IPC the Hospitalist Company, Inc. in Manor Care Defendants/Appellees' Objection to Portions of the Estate's Supplemental Brief (Appellees Manor Care of Tucson et al)
31. 23-Jan-2017 A "Motion of the Arizona Association for Justice/Arizona Trial Lawyers Association for Leave to File Amicus Curiae Brief" (Amici Arizona Association for Justice/Arizona Trial Lawyers Association) and the Brief of Amicus Curiae were filed on January 20, 2017.

IT IS ORDERED granting the motion. The brief shall be filed as of January 20, 2017. (Hon. Robert M. Brutinel)

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32. 24-Jan-2017 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Scott E. Boehm; James W. Kaucher; Anne M. Fulton-Cavett)