

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0137

MONTGOMERY v. KINGMAN REGIONAL, et al.

Appellate Case Information

Case Filed: 17-Mar-2023

Case Closed:

Dept/Composition

Department C

Hon. Paul J McMurdie
Hon. Maria Elena Cruz
Hon. Cynthia J Bailey

Side 1. GERALD MONTGOMERY, Plaintiff/Appellant

(Litigant Group) GERALD MONTGOMERY (JEANETTE PATTERSON-WATSON dismissed per order filed on 12/27/2023)

- Gerald Montgomery PRO SE

Side 2. KINGMAN REGIONAL HOSPITAL EMERGENCY DEPARTMENT; KHI RISK MANAGEMENT DEPARTMENT; and THE MEDICAL STAFF DEPARTMENT, Defendant/Appellee

(Litigant Group) KINGMAN REGIONAL HOSPITAL EMERGENCY DEPARTMENT; KHI RISK MANAGEMENT DEPARTMENT, and THE MEDICAL STAFF DEPARTMENT

- Kingman Regional Hospital Emergency Department Attorneys for: Defendant/Appellee
Donn C Alexander, Esq. (AZ Bar No. 19389)
Kathleen S Elder, Esq. (AZ Bar No. 21763)
Ashley E Caballero-Daltrey, Esq. (AZ Bar No. 36449)
KHI Risk Management Department
Medical Staff Department

CASE STATUS

Jun 18, 2024....Pending Closure

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MOH, S8015CV202200935, Malpractice, Lee Frank Jantzen, Authoring Judge of Order.

Table with 2 columns: DESCENDENT CASE(S), Cause/Charge/Class. Row 1: ASC, CV-24-0146-PR.

OPEN DUE DATE

Petition for Review to ASC due Due By: Wednesday, July 3, 2024

Re: ORDERED: Appellants [sic] Motion for Reconsideration to Amend and Modify, and Correct [sic] Order Filed 5/23/2024 (Appellant Pro Per) = DENIED. Hon Maria Elena Cruz - Author

CASE DECISION

23-May-2024 MEMORANDUM DECISION

Maria Cruz.....Author
Paul McMurdie.....Concur
Cynthia Bailey.....Concur

Table with 2 columns: Filed: 23-May-2024, Mandate: Decision Disposition Affirmed

59 PROCEEDING ENTRIES

- 1. 17-Mar-2023 FILED: Index of Record, Notice of Appeal from Mohave County Superior Court filed 03/08/23
2. 17-Mar-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Digital Exhibits: Plaintiff Hearing Date 1/3/23 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20
3. 17-Mar-2023 FILED: Appellate Clerk Notice re: Continuing Waiver of Fees for Gerald Montgomery, Appellant
4. 17-Mar-2023 FILED: Appellate Clerk Notice re: Appellant's Fee Waived/Appellee's Fee Due/Case Management Statement/Brief Due
5. 27-Mar-2023 ORDERED: Pursuant to Eaton Fruit Co. v. California Spray-Chemical Corp., staying appeal until 04/26/2023. Signed order re: minute entry of 02/06/2023 filed 02/06/2023 due within 10 days after its entry. If appeal reinstated by filing of signed order, the case management statement is due on 05/08/2023, and the opening brief due 05/26/2023. Melina Brill ProTem Judge - Author
6. 26-Apr-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
7. 3-May-2023 FILED: Appellants [sic] Motion to Continue Stay Due to Mailing Issues; Certificate of Electronic Service (Appellant Pro Per)

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8. 4-May-2023 ORDERED: Appellants [sic] Motion to Continue Stay Due to Mailing Issues (Appellant Pro Per) = GRANTED and continuing the stay of this appeal until 06/05/2023, for the purposes set forth in this court's 03/27/2023 stay order. FURTHER ORDERED: Directing the clerk of the superior court to transmit a certified copy of the ruling within 10 days after its entry, marked for filing in this appeal. The stay will be lifted automatically when this court receives the signed order. FURTHER ORDERED: The stay will be lifted automatically on 06/05/2023, unless before that date appellants file a motion to continue the stay. If appellants do not file a motion to continue the stay and the superior court has not entered a signed order, this court will dismiss this appeal. FURTHER ORDERED: If this court has received a signed order before 06/05/2023, the case management statement is due on 06/15/2023, and the opening brief is due on 07/05/2023. Melina Brill ProTem Judge - Author
9. 5-Jun-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record (Includes signed order filed 06/05/2023)
10. 9-Jun-2023 FILED: Copy of Mohave County Superior Court ME filed 06/05/2023 re: Denying Motion for Relief from Order filed 01/18/2023
11. 15-Jun-2023 FILED: Motion for Extension of Time Due to Late Mailing by Superior Court. Recived [sic] 6/14/23; Certificate of Service (Appellant Pro Per)
12. 16-Jun-2023 ORDERED: Motion for Extension of Time Due to Late Mailing by Superior Court. Recived [sic] 6/14/23 (Appellant Pro Per) = GRANTED. Due date (case management statement) EXTENDED from Thursday, 06-15-2023 to Friday, 06-23-2023. If the case management statement is not timely filed, the court will consider imposing sanctions, which may include dismissing this appeal. Melina Brill ProTem Judge - Author
13. 23-Jun-2023 FILED: Case Management Statement (Appellant Pro Per)
14. 26-Jun-2023 FILED: Notice of Association of Counsel; Certificate of Service (Appellee)
15. 30-Jun-2023 RECEIPT No.: 2023-00578 ; \$140.00, Authorization: # 81003563273, Applied to: KINGMAN REGIONAL HOSPITAL EMERGENCY DEPARTMENT; KH - Class B Filing Fee (\$140.00) Paid for: Jones Skelton & Hochuli PLC - By nCourt LLC
16. 5-Jul-2023 FILED: Motion for Extension of Time to File Brief (Opening); Certificate of Service (Appellant Pro Per)
17. 6-Jul-2023 ORDERED: Motion for Extension of Time to File Brief (Opening) (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 07-05-2023 to Monday, 07-17-2023. If brief not timely filed, the court will dismiss this appeal. Barbara Vidal Vaught ProTem Judge - Author
18. 17-Jul-2023 FILED: Appellants [sic] Opening Brief; Certificate of Compliance; Certificate of Service (Appellant Pro Per)
19. 23-Aug-2023 FILED: Notice of Suggestion of Death and Request for Procedural Order Extending Due Date for Answering Brief; Certificate of Service (Appellee)
[see Supplemental Notice to Notice of Suggestion of Death filed 08/25/2023 - mtn]
20. 24-Aug-2023 FILED: Appellant Gerald Montgomery (The Power of Attorney) No. (1). Objections to Extend Appellees Due Date for Answer Brief... (Ariz. Rule of Civ. Procedure R. 46) (2). Response for Temporary Cotinuation Among Remaining Party (Ariz. Rules of Civil Procedure Rule 25 (a), (4).). Together With, (3). Power of Attorney Denial of Parties Death Etc. Appellants Certificate of Service of Electronic Service (Appellant Pro Per)
21. 24-Aug-2023 ORDERED: Vacating the 08/28/2023 due date for the answering brief. FURTHER ORDERED: Appellant(s) shall file a response to the motion (Notice of Suggestion of Death and Request for Procedural Order Extending Due Date for Answering Brief) by 09/13/2023, that indicates whether Mrs. Patterson-Watson passed away and, if so, whether a motion to substitute a personal representative for her will be filed or whether this appeal is moot. Melina Brill ProTem Judge - Author
22. 25-Aug-2023 FILED: Supplemental Notice of Suggestion of Death; Certificate of Service (Appellee)
[see Notice of Suggestion of Death filed 08/23/2023 - mtn]
23. 25-Aug-2023 ORDERED: Requesting that appellees file a reply (reply to objections to the extension motion, response to continuation, and power of attorney) by 09/06/2023. Melina Brill ProTem Judge - Author
[Vacated per order filed 8/30/2023 - mao]
24. 27-Aug-2023 FILED: Appellant Gerald Montgomery (the Power of Attorney/"Nominated Conservator") (1). Motion for "Appointment Conservator" as Jeanette Patterson-Watson Conservator of Her Estate, Per Ms. Patterson-Watson Nomination of Gerald Montgomery in the Power of Attorney Form. (2). Motion for Cotinuation [sic] Among Remaining Party (Ariz. Rules of Civil Procedure Rule 25 (a), (4).). Together With, (3). Motion for Substitution of Party, & Time Limit. Ariz. Rules of Civ. Procedure Rule 25 (a) et. al. (Appellant Pro Per)
25. 30-Aug-2023 ORDERED: Vacating the court's 08/25/2023 order requesting that appellees file a reply to the objections to the extension motion, response to continuation, and power of attorney. FURTHER ORDERED: Any response to Gerald Montgomery's motion for appointment of conservator, motion for continuation among remaining party, and motion for substitution of party is due by 09/14/2023. Melina Brill ProTem Judge - Author

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26. 14-Sep-2023 FILED: Appellees' Response to Appellant Montgomery's Motion for "Appointment of Conservator," Motion for Continuation Among Remaining Party, and Motion for Substitution of Party; Certificate of Service (Appellees)
27. 18-Sep-2023 FILED: Reply to Appellees [sic] Response to Appellant Montgomery's. [sic] Motions for Appointment of Conservator [sic]; Motion for Continuance of Remaining Party; and Motion for Substitution of Party. [sic]; Appellants [sic] Certificate of Service of Electronic Service (Appellant Pro Per)
28. 18-Sep-2023 ORDERED: Staying this appeal pending further order of the court. FURTHER ORDERED: Allowing the appeal to proceed as to Ms. Patterson-Watson's claims if a personal representative for her estate is appointed within 90 days. The superior court may appoint a personal representative for Ms. Patterson-Watson's estate in a separate probate proceeding. FURTHER ORDERED: Requiring Ms. Patterson-Watson's personal representative to file a notice in this court along with documentation of appointment within 10 days of the appointment. FURTHER ORDERED: Allowing this appeal to proceed as to Mr. Montgomery's claims only if a personal representative is not appointed by 12/18/2023. Hon David B Gass - Author
29. 27-Dec-2023 ORDERED: Lifting the stay of this appeal. FURTHER ORDERED: Dismissing Jeanette Patterson-Watson from this appeal. FURTHER ORDERED: Amending the caption to remove Jeanette Patterson-Watson as an appellant. The caption shown above must be used on all documents filed in this appeal. FURTHER ORDERED: The answering brief is due by 01/26/2024. Barbara Vidal Vaught ProTem Judge - Author
30. 26-Jan-2024 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
31. 16-Feb-2024 FILED: Appellant's Reply Brief; Appellants [sic] Certificate of Compliance to Reply of No Reply Brief; Appellant's Certificate of Electronic Service (Appellant Pro Per)
32. 16-Feb-2024 FILED: Appellants [sic] Certificate of Compliance to Reply of No Reply Brief (Duplicate); Appellant's Certificate of Electronic Service (Duplicate) (Appellant Pro Per)
33. 16-Feb-2024 FILED: Appellant's Certificate of Electronic Service (Duplicate) (Appellant Pro Per)
34. 21-Feb-2024 FILED: Appellants [sic] Certificate of Compliance of Appellants [sic] Motion for Procedural Order; Appellants [sic] (Corrected) Certificate of Electronic Service (Appellant Pro Per) (Striken Per Order Filed 2/26/24)
35. 21-Feb-2024 FILED: Appellant's (Corrected) Reply Brief with Hyperlinks; Appellants [sic] Corrected Certificate of Compliance of Appellants [sic] Corrected Reply with Hyperlinks; Appellants [sic] (Corrected) Certificate of Electronic Service (Appellant Pro Per) (Striken Per Order Filed 2/26/24)
36. 21-Feb-2024 FILED: Appellants [sic] Certificate of Compliance of Appellants [sic] Motion for Procedural Order (Duplicate); Appellants [sic] (Corrected) Certificate of Electronic Service (Duplicate) (Appellant Pro Per) (Striken Per Order Filed 2/26/24)
37. 21-Feb-2024 FILED: Appellants [sic] "Motion For Procedural" Order for Permission to Filed [sic] Appellants [sic] Corrected Reply Brief with Hyperlinks and Appellants [sic] Corrected Certificate of Compliance [sic] (A.R.C.P. Rule 6 (B),); Appellants [sic] (Corrected) Certificate of Electronic Service (Appellant Pro Per) (Striken Per Order Filed 2/26/24)
38. 26-Feb-2024 FILED: Appellants[sic] (Signed Corrected) "Motion for Procedural Order", for Permission to Filed[sic] Appellants[sic] Corrected Reply Brief with Hyperlinks and Appellants[sic] Corrected Certificate of Compliance[sic] (A.R.C.P. Rule 6 (B),); Appellants[sic] Certificate of Electronic Service of Appellants[sic] Signed Corrected Motion and Certificate of Compliance (Duplicate) (Appellant Pro Per)
39. 26-Feb-2024 FILED: Appellants[sic] (Signed Corrected) Certificate of Compliance of Appellants Motion for Procedural Order; Appellants[sic] Certificate of Electronic Service of Appellants[sic] Signed Corrected Motion and Certificate of Compliance (Duplicate) (Appellant Pro Per)
40. 26-Feb-2024 FILED: Appellants[sic] Certificate of Electronic Service of Appellants[sic] Signed Corrected Motion and Certificate of Compliance (Duplicate) (Appellant Pro Per)
41. 26-Feb-2024 ORDERED: Striking the motion filed 2/21/24. FURTHER ORDERED: Striking the certificate of compliance and corrected reply brief filed 2/12/24. Melina Brill ProTem Judge - Author
42. 28-Feb-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
43. 7-Mar-2024 FILED: Appellant's (Corrected) [sic] Reply Brief with Hyperlinks; Appellants [sic] (Corrected) Certificate of Electronic Service; Appellants [sic] (Corrected) Certificate of Electronic Service (Appellant Pro Per)
44. 11-Mar-2024 FILED: Appellant's Certificate of Compliance to Reply Brief with Hyperlinks; Appellant's Certificate of Electronic Service of Appellants [sic] Reply Brief with Hyperlinks (Appellant Pro Per)
45. 14-Mar-2024 FILED: Appellee's Motion to Strike Appellant's Corrected Reply Brief and Corrected Certificates of Electronic Service and Compliance; Certificate of Service (Appellee)
46. 16-Mar-2024 FILED: Appellant's (Corrected) Certificate of Electronic Service of Certificate of Compliance to Appellants [sic] Reply Brief with Hyperlinks due to Harmless Clerical Error (Appellant Pro Per)

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47. 26-Mar-2024 CLNDR: CONFERENCE, Department C, 5-15-24, COURTROOM 1.
48. 26-Mar-2024 FILED: Appellants [sic] Response Memorandum to Deny Appellees [sic] Motion to Strike as Untimely Etc. (with Hyperlinks); Appellants [sic] Certificate of Compliance of Appellants [sic] Response Memorandum to Deny Appellees [sic] Motion to Strike ect. and, Certificate of Compliance (Appellant Pro Per)
49. 27-Mar-2024 Record Receipt Noted - ENTIRE RECORD FILED - There is no additional electronic or physical record to be transmitted.
50. 28-Mar-2024 FILED: Appellant's Certificate of Service of Appellants [sic] Certificate of Compliance of Appellants [sic] Response Meomorandum [sic] to Deny Appellants [sic] Motion to Strike & Cerificate [sic] Of Compliance (Appellant Pro Per)
51. 28-Mar-2024 FILED: Appellant's Certificate of Service of Appellants [sic] Certificate of Compliance of Appellants [sic] Response Meomorandum [sic] to Deny Appellants [sic] Motion to Strike & Cerificate [sic] of Compliance (Duplicate) (Appellant Pro Per)
52. 1-Apr-2024 FILED: Appellee's Reply in Support of Motion to Strike Appellant's Corrected Reply Brief and Corrected Certificates of Electronic Service and Compliance; Certificate of Service (Appellee)
53. 19-Apr-2024 ORDERED: Appellants[sic] (Signed Corrected) "Motion for Procedural Order", for Permission to Filed[sic] Appellants[sic] Corrected Reply Brief with Hyperlinks and Appellants[sic] Corrected Certificate of Compiance[sic] (A.R.C.P. Rule 6 (B),) (Appellant Pro Per) = GRANTED in part, accepting Appellant's corrected reply brief but denying the treble damages request. FURTHER ORDERED: Appellee's Motion to Strike Appellant's Corrected Reply Brief and Corrected Certificates of Electronic Service and Compliance (Appellee) = GRANTED in part. FURTHER ORDERED: Granting Appellee's request to strike "Appellants (Corrected) Certificate of Electronic Service" that erroneously stated Appellee filed no response. The court accepts the other certificate of service filed the same day. FURTHER ORDERED: Denying Appellee's request to strike Appellant's corrected reply brief, "Appellants Certificate of Electronic Service of Appellants Reply Brief with Hyperlinks," and "Appellants Certificate of Compliance to Reply Brief with Hyperlinks." Hon Paul J McMurdie - Author
54. 23-May-2024 MEMORANDUM DECISION (Affirmed) Hon Maria Elena Cruz - Author; Hon Paul J McMurdie - Concur; Hon Cynthia J Bailey - Concur
55. 23-May-2024 FILED: Decision Distribution Notification
56. 14-Jun-2024 FILED: Appellants [sic] Motion for Reconsideration to Amend and Modify, and Coorrect [sic] Order Filed 5/23/2024; Appellants [sic] Certificate of Service; Appellants [sic] Certificate of Service (Duplicate) (Appellant Pro Per)
57. 14-Jun-2024 FILED: Appellants Motion for Reconsideration to Amend and Modify, and Coorrect [sic] Order Filed 5/23/2024 (Duplicate); Appellants [sic] Certificate of Service (Duplicate) (Appellant Pro Per)
58. 14-Jun-2024 FILED: Appellants [sic] Certificate of Service (Duplicate) (Appellant Pro Per)
59. 18-Jun-2024 ORDERED: Appellants [sic] Motion for Reconsideration to Amend and Modify, and Coorrect [sic] Order Filed 5/23/2024 (Appellant Pro Per) = DENIED. Hon Maria Elena Cruz - Author