

# Court of Appeals, Division One

## Civil Appeal

**1 CA-CV 23-0571**

**SMITH, et al. v. DELLARIPA, et al.**

### Appellate Case Information

Case Filed: 15-Sep-2023

Case Closed:

### Dept/Composition

#### Department B

Hon. Andrew M Jacobs  
Hon. Jennifer M Perkins  
Hon. David B Gass

### Side 1. HERMAN B. SMITH, et al., Plaintiff/Appellant

(Litigant Group) HERMAN B. SMITH, et al.

- Herman B Smith
- Vital Signs Anesthesia Inc

#### Attorneys for: Plaintiff/Appellant

Robert J Itri, Esq. (AZ Bar No. 10938)  
Chelsea L Gulinson, Esq. (AZ Bar No. 34886)  
Elizabeth C Fine, Esq. (AZ Bar No. 30054)  
Cober Plucker, Esq. (AZ Bar No. 24758)

### Side 2. JAMES S. DELLARIPA, et al., Defendant/Appellee

(Litigant Group) JAMES S. DELLARIPA, et al.

- James S Dellaripa
- Ginger Dellaripia
- James Dellaripa MD PLLC
- Southwest Anesthesia Group LLC
- IOM LLC
- Chaparral Medical Billing Company LLC

#### Attorneys for: Defendants/Appellees

Blake E Whiteman, Esq. (AZ Bar No. 10521)  
Joseph A Brophy, Esq. (AZ Bar No. 26662)

### CASE STATUS

Jun 11, 2024....Under Advisement

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CV2020-011176	Contracts;Fraud		Dewain D Fox, Authoring Judge of Order		

### CALENDAR

<b>Tuesday</b>	MONTHLY COURT CASE CALENDAR		<i>Mixed</i>
<b>11-Jun-2024</b>	<b>Department B; COURTROOM 2</b>		
10:00 AM	HERMAN B. SMITH, et al.....	20 mins.	
	JAMES S. DELLARIPA, et al.....	20 mins.	

### 33 PROCEEDING ENTRIES

1.	15-Sep-2023	FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/18/23
2.	15-Sep-2023	FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3.	18-Sep-2023	FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4.	28-Sep-2023	RECEIPT No.: 2023-00921 ; \$280.00, Check Number: #21979, Applied to: HERMAN B. SMITH, et al. - Class A Filing Fee (\$280.00) Paid for: - By Milligan Lawless PC
5.	29-Sep-2023	FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
6.	6-Oct-2023	FILED: Case Management Statement (Appellant)
7.	10-Oct-2023	FILED: Appellants' Motion for Procedural Order (to File Opening Brief); Certificate of Service (Appellant)
8.	11-Oct-2023	FILED: Appellees' Motion To Determine Jurisdiction; Certificate of Service (Appellant)
9.	11-Oct-2023	ORDERED: Appellants' Motion for Procedural Order (to File Opening Brief) (Appellant) = DENIED. Melina Brill ProTem Judge - Author

**Court of Appeals, Division One****Civil Appeal****1 CA-CV 23-0571****SMITH, et al. v. DELLARIPA, et al.****33 PROCEEDING ENTRIES**

10.	12-Oct-2023	ORDERED: Vacating the 11/17/2023 due date for the opening brief. The order ruling on the pending motion (motion to determine jurisdiction) will set a due date to file the opening brief, if the appeal is not dismissed. Melina Brill ProTem Judge - Author
11.	16-Oct-2023	FILED: Notice of Payment of Appellees' Filing Fee; Certificate of Service (Appellee)
12.	20-Oct-2023	RECEIPT No.: 2023-00994 ; \$140.00, Authorization: #93005936624, Applied to: JAMES S. DELLARIPA, et al. - Class B Filing Fee (\$140.00) Paid for: Jennings Haug Keleher McLeod LLP - By nCourt LLC
13.	30-Oct-2023	FILED: Appellants' Response to Appellees' Motion to Determine Jurisdiction; Certificate of Service (Appellants)
14.	20-Nov-2023	ORDERED: Appellees' Motion To Determine Jurisdiction (Appellant) = GRANTED as set forth herein. 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. Hon D Steven Williams - Author
15.	15-Dec-2023	FILED: Appellants' Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances; Certification of Service (Appellant)
16.	15-Dec-2023	FILED: Notice of Appearance; Certification of Service (Appellant)
17.	18-Dec-2023	FILED: Amended Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances; Certification of Service; Exhibit A (To Amended Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances) (Appellant)
18.	18-Dec-2023	ORDERED: Appellants' Motion for Procedural Order Extending Time to File Opening Brief Due to Exigent Family Circumstances (Appellant) = GRANTED. Due date EXTENDED from Friday, 12-22-2023 to Friday, 01-05-2024. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
19.	5-Jan-2024	FILED: Appellants' Opening Brief; Certificate of Compliance; Certification of Service (Appellant)
20.	9-Jan-2024	FILED: Appellants' Request for Oral Argument; Certification of Service (Appellant)
21.	9-Jan-2024	FILED: Notice of Appearance; Certification of Service (Appellant)
22.	14-Feb-2024	FILED: Appellees' Answering Brief; Certificate of Compliance; Certification of Service (Appellee)
23.	5-Mar-2024	FILED: Appellants' Reply Brief; Certificate of Compliance; Certification of Service (Appellant)
24.	13-Mar-2024	ORDERED: Appellants' Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
25.	2-Apr-2024	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
26.	12-Apr-2024	FILED: Supplemented Superior Court e-Record with Revised Index of Record
27.	26-Apr-2024	CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 6-11-24, 10:00 am, COURTROOM 2.
28.	26-Apr-2024	FILED: Notice of Oral Argument
29.	30-May-2024	FILED: Memorandum: Substitute Judge Gass for Judge Weinzweig (Chief Judge Gass)
30.	3-Jun-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Cober Plucker on 04/26/2024 (Appellant)
31.	4-Jun-2024	FILED: Return Receipt for Notice of Oral Argument, signed by Joseph Brophy on 04/26/2024 (Appellee)
32.	4-Jun-2024	ORDERED: In addition to whatever arguments the parties wish to advance, counsel should be prepared to address the following questions: (see order). Hon Andrew M Jacobs - Author
33.	14-Jun-2024	FILED: Sign-in Sheet/Case is Under Advisement as of 6/11/24