

COURT OF APPEALS, DIVISION ONE
Civil Appeals Docket

1 CA-CV 00-0570

DEPT B
COURT AST JCG NF

CONSOLIDATED:

SHORT CAPTION: GARDEN LAKES V. MADIGAN
COUNTY: MARICOPA
COUNTY NOS: CV 97-004796/CV 97-005359
JUDGE: David Talamante
TRANSFER NOS:
CITATION-1: 62 P.3D 983
CITATION-2:
Date Stayed:
Trans: Place Reinst:
Transfer:

Record Rec:	19-Dec-00	N/A Timely	Y	Bond: N
X Filed:	N	X/Timely:		
Class:	Breach of Contract;	Injunctive Relief		
Notice To Counsel:	3-Jan-01			
Rec Filed:	29-Dec-00			
Open1 Due:	15-Mar-01	Open1 Filed:	21-Feb-01	
Open2 Due:		Open2 Filed:		
ANS1 Due:	9-Apr-01	ANS1 Filed:	6-Apr-01	
ANS2 Due:		ANS2 Filed:		
Reply1 Due:	1-May-01	Reply1 Filed:	1-May-01	
Reply2 Due:		Reply2 Filed:		
Ans/XOpen Due:		Ans/XOpen Filed:		
Reply/XAns Due:		Reply/XAns Filed:		
X/Reply Due:		X/Reply Filed:		
Issue:	1-May-01	Issue List No:	01173	
Oral:	Y	Calendared:	6-Sep-01	
Date:	7-Mar-01	O/A Time:	9:30	
Conf:	N	Under Advisement:	6-Sep-01	
Decision:	18-Feb-03	Decision Type:	OP	
Result:	AF	Percuriam:		
Author:	JCG	Concur:	AST,NF	
Costs Filed:	3-Mar-03	Dissent:		
MR Due:	5-Mar-03	MR Filed:		
Resp MR Due:		Resp MR Filed:		
MR Order	G	MR Order Date:	24-Apr-03	
Cost Obj Due:	17-Mar-03	Cost Obj Filed:	11-Mar-03	
Cost Reply Due:	24-Mar-03	Cost Reply Filed:		
Cost Order:		Cost Order Date:		
Decision Sup:		Date:		
PR Due:	20-Mar-03	PR Filed:	19-Mar-03	
X PR Due:		X PR Filed:		
PR Order:	D	PR Order Date:	2-Jul-03	
Mandate:	22-Jul-03	Terminate:		
Tick1:	MO STAY - WRIT CERT 7/17/03			
Tick2:	RESP AMIC BRF FLD 9/18/01 (GL)			
Comment - 1:	AMIC BRF FLD 8/10/01 (SCGCA); PR TO ASC, 3/21/03			
Comment - 2:	ASC #CV-03-0091-PR;APLEES RESP AMIC BRF FLD 9/5/01			

COURT OF APPEALS
DIVISION ONE

DOCKET ENTRIES

1 CA-CV 00-0570

- 12/29/2000 FILED:RECEIPT, #0002229, \$140.00, Check #1513, Appellant filing fee paid by Beth Mulcahy for Appellant Garden Lakes Comm. Assn.
- 12/29/2000 FILED:INDEX OF RECORD
- 12/29/2000 FILED:FIRST LETTER
- 01/03/2001 FILED:NOTICE TO COUNSEL
- 01/03/2001 FILED:ORDER - This appeal has been selected for assignment to a settlement conference before Appellate Mediator Bruce E. Meyerson on 2/8/01 at 8:30 a.m. in the State Courts Building 1501 West Washington Street, Phoenix, AZ 85007. The Conference shall not exceed two hours in length, IT IS ORDERED that each separately represented party shall submit a completed settlement statement form in an envelope marked "confidential" on/ before 10 days from date of this order. FURTHER, staying the briefing schedule until further order. FURTHER, that each party or representative who is authorized to enter into a binding settlement agreement shall either attend the settlement conference in person or, with the authorization of the settlement judge on good cause shown, be immediately available to participate by telephone. FURTHER, attorney's FAILURE TO APPEAR WITH CLIENT WILL RESULT IN SANCTIONS (Judge Noyes)
- 01/03/2001 FILED:NOTICE OF ASSOCIATION OF COUNSEL (Neal B. Thomas)
- 01/05/2001 FILED:REPORTER'S TRANSCRIPTS (4 vols., 1/11/00, 1/12/00, 1/13/00, 1/14/00)
- 01/05/2001 FILED:NOTICE OF SERVICE OF TRANSCRIPT (Appellant)
- 01/09/2001 FILED:NOTICE OF CHANGE OF ADDRESS (Hyung S. Choi) (Appellees)
- 01/17/2001 FILED:RECEIPT, #0100087, \$70.00, Check #2249, Appellee filing fee paid by Hyung S. Choi for Madigan/Speak
- 01/17/2001 FILED:NOTICE OF FILING SETTLEMENT STATEMENT (Appellees)
- 02/13/2001 FILED:ORDER - that this appeal is returned to the court's docket for resumption of the normal appellate process. FURTHER, that the opening brief is due on/before 3/15/01. (Judge Voss)
- 02/21/2001 FILED:OPENING BRIEF OF APPELLANT GARDEN LAKES
- 03/07/2001 FILED:REQUEST FOR ORAL ARGUMENT (Appellant)
- 04/06/2001 FILED:ANSWERING BRIEF OF DEFENDANTS-APPELLEES MADIGAN AND SPEAK
- 04/11/2001 FILED:ORDER - the clerk of Maricopa County Superior Court has to/ including 4/26/01, to transmit the record on appeal. (Judge Voss)
- 04/26/2001 FILED:RECORD ON APPEAL (Instruments/Minute Entries [11 vols, CV 97-04796; 1 vol, CV 97-05359]; Deposition's [10 vols, John Gilchrist; Tom Brantner; Donald LaMontague; James Howard Barnes; Robert Hammond; Walter M. Mikitowicz; Bruce Bartley; Kelly Dancer; William Madigan; Michael Neary]; Exhibit's [list #1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,43,44,45,46,47,49,54,55,56,57,58,59,64,65,66,68,71,73,74,75,77,78,84,86,87,88,89,96,97,106,107,108,109,110,113,114,115,118,119,120,121,122,123,124,134,135,140,141,147,148,149,150,152,153,154,155,156,162,163,164,165,166,167,168,169,170,175,176,177,178 in small white box])

1 CA-CV 00-0570 DOCKET ENTRIES ... Continued

05/01/2001 FILED:REPLY BRIEF OF APPELLANT GARDEN LAKES
06/05/2001 FILED:ORDER - granting the request for oral argument. (Judge Noyes)
07/23/2001 CLNDR:ORAL ARGUMENT, Dept B, 9-6-01, 9:30 a.m., Courtroom 1, each side 20 mins.
07/31/2001 FILED:NOTICE OF ORAL ARGUMENT - Dept, B, Courtroom 1, 9/6/01 @ 9:30 a.m. Each side has 20 minutes.
08/02/2001 FILED:RECEIPT OF ORAL ARGUMENT, 9/6/01, (signature illegable), paralegal signed 8/1/01.
08/07/2001 FILED:RECEIPT OF ORAL ARGUMENT, 9/6/01, (signature illegible), signed 8/1/01.
08/10/2001 FILED:APPLICATION FOR PERMISSION TO FILE BRIEF AS AMICUS CURIAE (Sun City Community Assoc.)
08/10/2001 FILED:AMICUS BRIEF (Sun City Grand Community Assoc.)
08/10/2001 FILED:CERTIFICATION OF FILING (Sun city Grand Community Assoc.)
08/14/2001 FILED:ORDER - approving the Application to file brief as Amicus Curiae. (Dept. B, J. Gemmill, Associate Presiding Judge)
08/14/2001 FILED:RECEIPT OF ORAL ARGUMENT, 9/6/01, Jill D. Hilsinger signed for Gerald A. Pollock, 8/1/01.
08/15/2001 FILED:REQUEST TO PARTICIPATE IN ORAL ARGUMENT (Applicant Sun City)
08/16/2001 FILED:NOTICE OF NO OPPOSITION TO REQUEST TO PARTICIPATE IN ORAL ARGUMENT (Appellees)
08/17/2001 FILED:REQUEST TO RESPOND TO AMICUS CURIAE BRIEF (Appellant)
08/17/2001 FILED:ORDER - denying the Request. (Dept. B, J. Gemmill, Associate Presiding Judge)
08/17/2001 FILED:LETTER, 8/17/01, to R. Maggianetti, COS, RE: We are forwarding the attached document to you as it was inadvertently filed within the record transmitted to the Court of Appeals. Div. 1, Index item #158 "Defendant Carilyn Elmer's Statement of Material Facts in Support of Her Motion for Summary Judgment" (MARICOPA CV 98-09065). (G. Clark, Clerk)
08/20/2001 FILED:ORDER - denying the Request (to respond to amicus curiae brief). (Dept. B, A. Timmer, Presiding Judge)
08/24/2001 FILED:SUPPLEMENTAL CITATION OF LEGAL AUTHORITY (Appellant)
09/05/2001 FILED:NOTICE OF FILING DEFENDANT-APPELLEES' RESPONSE TO AMICUS BRIEF (Appellees)
09/05/2001 FILED:DEFENDANTS-APPELLEES' RESPONSE TO AMICUS BRIEF
09/06/2001 FILED:ORDER - that Appellant may respond to the amicus curiae brief filed by Sun City Grand Community Association, Inc. on/before 9/20/01. (Dept. B, A. Timmer, Presiding Judge)
09/06/2001 FILED:APPEARANCE LIST - ORDER - Under Advisement (Dept. B, A. Timmer J. Gemmill, N. Fidel, Judges)
09/18/2001 FILED:RESPONSE TO AMICUS CURIAE BRIEF OF SUN CITY GRAND COMMUNITY ASSOCIATION, INC.
09/21/2001 FILED:MOTION TO STRIKE APPELLANT'S RESPONSE TO AMICUS CURIAE BRIEF (Appellees)
09/26/2001 FILED:RESPONSE TO MOTION TO STRIKE APPELLANT'S RESPONSE TO AMICUS CURIAE BRIEF (Appellant)
10/04/2001 FILED:REPLY IN SUPPORT OF MOTION TO STRIKE APPELLANT'S RESPONSE TO AMICUS CURIAE BRIEF (Appellees)
10/09/2001 FILED:ORDER - granting in part Appellees' Motion to Strike Appellant's Response to Amicus Curiae Brief. This Court will consider only those portions of Appellant's responsive brief which address issues directly raised in the Amicus Brief. FURTHER, a copy of this Order shall be affixed to the original and each copy of the Response to Amicus Curiae Brief of Sun City Grand Community Association, Inc, filed 9/18/01.

(Dept. B, J. Gemmill, Judge)

- 12/19/2002 FILED:NOTICE OF CHANGE OF ADDRESS (Appellee)
- 02/18/2003 FILED:DHL RECEIPT #867-0259-194
- 02/18/2003 FILED:ORDER - OPINION (AFFIRMED) (Dept. B, Judge Gemmill,
CONCURRING: Judge Timmer, Judge Fidel)
- 02/18/2003 FILED:LETTER, 2/18/03, to Mead Data Central, RE: OPINION filed
2/18/03
- 02/18/2003 FILED:LETTER, 2/18/03, to West Publishing Company, RE: OPINION
filed 2/18/03
- 02/18/2003 FILED:FEDEX RECEIPT, #835848833886, to West Publishing Corp.
- 02/18/2003 FILED:GENERAL DISTRIBUTION LIST
- 03/03/2003 FILED:APPLICATION FOR ATTORNEY FEES (Appellant)
- 03/03/2003 FILED:STATEMENT OF COSTS AND ATTORNEY'S FEES and MEMORANDUM SUPPORT
OF THE STATEMENT (Appellant)
- 03/11/2003 FILED:RESPONSE TO STATEMENT OF COSTS AND ATTORNEYS' FEES (Appellant)
- 03/14/2003 FILED:REPLY IN SUPPORT OF APPELLEES' STATEMENT OF COSTS AND
ATTORNEYS' FEES and SUPPLEMENTAL STATEMENT OF COSTS
(Appellees)
- 03/19/2003 FILED:RECEIPT, #0300516, \$140.00, Check #9431, Petition for Review,
paid by THOMAS & ELARDO, P.C., for Appellant, Garden Lakes
Community.
- 03/19/2003 FILED:APPELLANT'S PETITION FOR REVIEW
- 03/19/2003 FILED:APPENDICES TO APPELLANT'S PETITION FOR REVIEW
- 03/21/2003 FILED:LETTER, 3/21/03, Petition and Appendices for Review to ASC
- 04/23/2003 FILED:ASC ORDER, 4/23/03, Honorable Noel Fidel is appointed to serve
as judge pro tempore and is authorized to participate and sign
decisions on 1 CA CV 00-0570
- 04/24/2003 FILED:ORDER - awarding Appellees their attorney's fees and cost as
follows: Attorneys fees, Choi & Rhee, PLLC \$18,138.38
Attorneys fees, Gerald Pollock \$1,746.00 Costs, Choi & Rhee,
PLLC \$139.67 for total of \$20, 024.05 (Dept. B, Judge J.
Gemmill)
- 07/02/2003 FILED:RESPONSE IN OPPOSITION TO PETITION FOR REVIEW, filed 4/18/03
in ASC.
- 07/02/2003 FILED:APPENDICES TO APPELLEES' RESPONSE IN OPPOSITION TO PETITION
FOR REVIEW, filed 4/18/03 in ASC.
- 07/02/2003 FILED:MOTION FOR LEEAVE OF COURT TO FILE AMICUS CURIAE BRIEF, filed
6/11/03 in ASC.
- 07/02/2003 FILED:ASC ORDER, 7/1/03, #CV-03-0091-PR, ORDERED: motion for leave
of court to file amicus brief = DENIED, FURTHER Appellant's
Petition for Review = DENIED. 6/30/03, FURTHER Request for
Attorneys' Fees [Plaintiff-Appellant Garden Lakes] = DENIED.
FURTHER Request for Attorneys' Fee [Defendant-Appellee Madigan
et at] = GRANTED. Record returned to Court of Appeals Div.
One, Phoenix, 7/1/03.
- 07/22/2003 FILED:LETTER, 7/22/03, Original MANDATE, Copy of Opinion, and Record
returned to Clerk, Maricopa County Superior Court.
- 07/22/2003 FILED:LETTER, 7/22/03, The Bureau of national Affairs, INC. RE:
Case Mandated on 7/22/03, from the Court of Appeals, Division
One, Phoenix.
- 07/22/2003 FILED:LETTER, 7/22/03, Mead Data Central, RE: Opinion filed 2/18/03.
Petition for Review DENIED on 7/2/03 by ASC #CV-03-0091-PR.
- 07/22/2003 FILED:LETTER, 7/22/03, West Publishing Company, RE: Opinion filed
2/18/03. Petition for Review DENIED on 7/2/03 by ASC,
#CV-03-0091-PR.

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07/22/2003 FILED:DHL RECEIPT, #7658661931, to Lexis Nexis
07/22/2003 FILED:FEDEX RECEIPT, #841380668950, to West Group