

Court of Appeals Division One

Civil Appeal

1 CA-CV 08-0655

KAUFMAN v. LANGHOFER

2 CASE DECISIONS

22-Dec-2009 MEMORANDUM DECISION

(Dept B)

Filed: 22-Dec-2009

Mandate:

Patricia Norris.....Author
 Sheldon Weisberg.....Concur
 Margaret Downie.....Concur

Decision Disposition
Affirmed

22-Dec-2009 OPINION

(Dept B)

Filed: 22-Dec-2009

Mandate:

Patricia Norris.....Author
 Sheldon Weisberg.....Concur
 Margaret Downie.....Concur

Decision Disposition
Affirmed

67 PROCEEDING ENTRIES

1. 22-Sep-2008 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 08/08/08
 Bond filed in Superior Court: 8/8/08
 Docketing Statement filed in Superior Court: 8/22/08
2. 23-Sep-2008 FILED: Notice to Counsel re: Appellant's Fee/Brief Due
3. 30-Sep-2008 RECEIPT No.: 2008-01484 ; \$140.00, Check Number: # 1025, Applied to: DAVID KAUFMAN - Appellant's Filing Fee Paid for: -
 By Law Office of Blake D Gunn
4. 8-Oct-2008 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
5. 10-Oct-2008 RECEIPT No.: 2008-01548 ; \$140.00, Check Number: # 31713, Applied to: WILLIAM LANGHOFER et al - Appellee's Filing Fee
 Paid for: - By Beaugureau Hancock Stoll & Schwartz PC
6. 10-Oct-2008 FILED: Stipulation for a Procedural Order Granting Extension of Time to File Opening and Response Briefs and Order (Proposed
 Order Attached)
7. 10-Oct-2008 FILED: Notice of Payment of Filing Fee (appellees)
8. 15-Oct-2008 FILED: Reporters Transcript (04/11/08, 05/07/08, 06/05/08, 06/09/08) [Kimberly C McCright], (06/11/08) [Anisa Beddow],
 (06/12/08) [Kimberly C McCright] 7 Vols.
9. 15-Oct-2008 ORDERED: extending the time for filing the opening brief to/including 12/15/2008. Absent compelling circumstances, no further
 extension will be granted. FURTHER ORDERED that pursuant to the stipulation of the parties, the answering brief will be due
 01/16/2009. (The Court notes that under Rule 15(a), ARCAP, if the opening brief is filed on 12/15/2008 and mailed to appellees,
 the answering brief would be due 01/29/2009.) Jean I Updike ProTem Judge - Author
10. 9-Dec-2008 FILED: Reporters Transcript (05/28/08 [Kimberly C McCright]) 1 Vol.
11. 10-Dec-2008 FILED: Second Stipulation for Procedural Order Extending Time to File Briefs and Order
12. 12-Dec-2008 ORDERED: extending the time for filing the opening brief to/including 12/24/2008 and appellees shall file their Answering Brief
 on/before 02/20/2009. Jean I Updike ProTem Judge - Author
13. 24-Dec-2008 FILED: APPELLANT'S OPENING BRIEF
14. 20-Feb-2009 FILED: ANSWERING BRIEF OF DEFENDANTS/APPELLEES William LANGHOFFER, DMV, FIRST REGIONAL ANIMAL HOSPITAL
 AND SCOTTSDALE VETERINARY CLINIC

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15. 25-Feb-2009 ORDERED: Clerk of Maricopa County Superior Court to transmit record on appeal, including but not limited to reporter's transcripts and exhibits, to clerk, Court of Appeals, on/before 03/12/2009. Philip G Urry - Author
16. 12-Mar-2009 FILED: Stipulation for Procedural Order Extending Time to File Reply Brief and Order (Order Attached)
17. 13-Mar-2009 FILED: Record on Appeal:
Instruments/Minute Entries: 4 Volumes
Exhibits: Hearing Date 6/9/08 - List and # 1, 2, 3, 4, 5, 6, 7, 9, 15, 16, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 in box;
Depositions: Todd Driggers DVM - 4/9/08; Brian L Speer DVM - 4/9/08; David Kaufman - 3/6/08; William J Langhofer DVM - 3/5/08; Jonnie Trent - 5/28/08; Jeffrey R Jenkins BSDVM - 5/27/07; Debra DeFazio - 5/8/08; Robert Martin Hammerman - 5/8/08; Sam Silvermand VM PHD - 5/13/08; Exhibits to Depositions 5/7-5/8/08 - 5/8/08; Donald E Gallagher - 5/7/08; Amber Nichole Mercier - 5/7/08; Samuel B Vaughn DVM - 4/11/08; Nancy Murbach DVM - 5/28/08; Thomas Archibald Robertson - 5/28/08 Reporters Transcript - 1 Vol. (09/12/05 [Donna Schlachter])
18. 17-Mar-2009 ORDERED: Extending the time to file reply brief to/including 04/22/09. No futher extension will be granted. Jean I Updike ProTem Judge - Author
19. 22-Apr-2009 FILED: Appellant's Request for Oral Argument
20. 22-Apr-2009 FILED: APPELLANT'S REPLY BRIEF
21. 8-Jul-2009 ORDERED: granting request for oral argument. Oral argument will be scheduled in the normal course of the court's civil appeals calendar. Counsel will be notified of the date. Hon Ann A Scott Timmer - Author
22. 14-Aug-2009 FILED: DEFENDANTS/APPELLEES WILLIAM LANGHOFER, DVM FIRST REGIONAL ANIMAL HOSPITAL, AND SCOTTSDALE VETERINARY CLINIC'S SUPPLEMENTAL CITATION OF LEGAL AUTHORITY
23. 31-Aug-2009 CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 10-28-09, 9:30 am, COURTROOM 1.
24. 9-Sep-2009 FILED: Rule 16(a) Consent to Filing of Amicus Curiae Briefs (Appellant)
25. 14-Sep-2009 ORDERED: granting Christopher B. Wencker of Benavidez Law Group, P.C. for the Animal Defense League of Arizona and John J. Egbert of Jennings Strouss & Salmon, P.L.C for the Animal Health Institute, et al., to file amicus curiae briefs, not to exceed 15 pages, on/before 09/21/2009. A party desiring to respond to an amicus brief shall file the response, not to exceed 15 pages, on/before 10/05/2009. Hon Patricia K Norris - Concur
26. 15-Sep-2009 FILED: Notice of Oral Argument, 10/28/2009, 9:30 A.M., Dept B., Courtroom 1. Twenty minutes per side.
27. 17-Sep-2009 FILED: Joint Request for Modification of Order (Appellant)
28. 17-Sep-2009 FILED: Receipt of Oral Argument, 10/28/2009, signed by David L. Stoll on 09/16/09
29. 18-Sep-2009 ORDERED: Joint Request for Modification of Order (Appellant) = DENIED. Hon Patricia K Norris - Author
30. 18-Sep-2009 FILED: Fax Transmittal Receipt(s) re: Order dated 9/18/09 to David Soll, Terrance Sims, and W. Reed Campbell
31. 21-Sep-2009 FILED: AMICUS CURIAE BRIEF OF ARIZONA VETERINARY MEDICAL ASSOCIATION, ANIMAL HEALTH INSTITUTE, AMERICAN ANIMAL HOSPITAL ASSOCIATION, AMERICAN KENNEL CLUB, AMERICAN PET PRODUCTS ASSOCIATION, AMERICAN VETERINARY MEDICAL ASSOCIATION, CAT FANCIERS' ASSOCIATION, AND PET INDUSTRY JOINT ADVISORY COUNCIL IN SUPPORT OF DEFENDANTS
32. 21-Sep-2009 FILED: BRIEF OF AMICUS CURIAE BRIEF ANIMAL DEFENSE LEAGUE OF ARIZONA

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33. 28-Sep-2009 ORDERED: Pursuant to Eaton Fruit Co. v. California Spray- Chemical Corp., 102 Ariz. 129, 426 P.2d 397 (1967), suspending appeal to/including 10/19/2009, re-vesting jurisdiction in superior court for purpose of permitting that court to consider an application for a signed order corresponding to minute entry of 08/13/2008 filed 08/14/2008. FURTHER ORDERED: superior court shall rule on application in furtherance of appeal. FURTHER ORDERED: if superior court grants application, court shall transmit certified copy of its signed order within 5 days after entry. For denial of costs to be considered, appellant must file an amended notice of appeal from signed order, referencing this appeal on/before 10/26/2009. FURTHER ORDERED: appeal shall be automatically reinstated on 10/20/2009 without further order. If order has been filed prior to 10/20/2009, and is sufficient to confer jurisdiction on this court over order denying costs to appellant, appeal from costs denial shall proceed along with other issues in appeal. If a signed order has not been filed prior to automatic reinstatement, court shall not consider appeal arguments concerning denial of costs. FURTHER ORDERED: in addition to usual mailings, copies of this order be mailed to Hon. Christopher Whitten and clerk of superior court. Hon Patricia K Norris - Author
34. 2-Oct-2009 FILED: Courtesy Copy - Maricopa County Superior Court Minute Entry dated 09/28/09, re: Plaintiff's Objection to Statement of Costs denied and Court declines to award Plaintiff's Statement of Costs (unsigned copy)
35. 5-Oct-2009 FILED: Motion for Procedural Order Extending Time to File Responses to Amicus Briefs and Order (Appellant)
36. 9-Oct-2009 ORDERED: Motion for Procedural Order Extending Time to File Responses to Amicus Briefs and Order (Appellant)= GRANTED. Due date EXTENDED from Monday, 10-05-2009 to Friday, 10-09-2009. Hon Sheldon H Weisberg - Author
37. 9-Oct-2009 FILED: Fax Transmittal Receipt re: Order dated 10/09/09 to Blake Gunn
38. 9-Oct-2009 FILED: APPELLANT'S RESPONSE TO AMICUS CURIAE BRIEF OF ARIZONA VETERINARY MEDICAL ASSOCIATION, ANIMAL HEALTH INSTITUTE, AMERICAN ANIMAL HOSPITAL ASSOCIATION, AMERICAN KENNEL CLUB, AMERICAN PET PRODUCTS ASSOCIATION, AMERICAN VETRINARY MEDICAL ASSOCIATION, CAT FANCIER'S ASSOCIATION, AND PET INDUSTRY JOINT ADVISORY COUNCIL IN SUPPORT OF DEFENDANTS
39. 14-Oct-2009 FILED: Receipt of Oral Argument, 10/28/2009, signed by John J. Egbert on 09/17/09 (not participating)
40. 16-Oct-2009 FILED: Certified Copy - Maricopa County Superior Court Minute Entry dated 09/28/09, re: Plaintiff's Objection to Statement of Costs denied and Court declines to award Plaintiff's Statement of Costs (signed by Hon. Christopher Whitten)
41. 19-Oct-2009 FILED: Motion for Extended Oral Argument by Amici Curiae (Amici Curiae Animal Defense League of Arizona)
42. 20-Oct-2009 FILED: Courtesy Copy - Amended Notice of Appeal
43. 20-Oct-2009 FILED: Notice of Filing Certified Copy of Signed Minute Entry
44. 21-Oct-2009 ORDERED: Motion for Extended Oral Argument by Amici Curiae (Amici Curiae Animal Defense League of Arizona) = DENIED. Pursuant to Rule 16 (a) of the Arizona Rules of Civil Appellate Procedure, an amicus curiae may participate in oral argument only by leave of the appellate court. Accordingly, in accordance with rule 16 (a), the parties to the appeal may, at their election, allow an amicus curiae to participate in oral argument during the 20 minute time period allotted to that party for argument. Hon Patricia K Norris - Author
45. 22-Oct-2009 FILED: Receipt of Oral Argument, 10/28/2009, signed by Christopher Wencker on 09/17/09
46. 26-Oct-2009 FILED: Motion to Allow Joinder of Peta Foundation and Animal Protection and Rescue League in Amicus Curiae Brief of Animal Defense League of Arizona (Appellant)
47. 26-Oct-2009 FILED: Notice of Filing Supplemental Appendix to Appellant's Reply Brief
48. 26-Oct-2009 FILED: Notice of Errata in Appellant's Opening Brief (Appellant)
49. 29-Oct-2009 SIGN IN SHEET AND ORDER: Under Advisement as of 10/28/09 (Dept. B, Judges Norris, Weisberg, Downie)

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50. 29-Oct-2009 FILED: Supplemental Index No. 1 with attachments as follows: Item No. 122, Court of Appeals Receipt, filed 09/26/09; Item No. 123, Court of Appeals Order, filed 02/27/09; Item No. 124, Letter Dated 03/12/09, filed 03/12/09; Item No 125, Transmittal/Receipt Dated 03/12/09, filed 03/18/09; Item No. 126, Court of Appeals Order, filed 09/29/09; Item No. 127, Minute Entry Order signed 09/28/09, filed 09/30/09; Item No. 128, Amended Notice of Appeal, filed 10/20/09
51. 30-Oct-2009 ORDERED: amending appellate caption by removing First Regional Animal Hospital as an appellee. Counsels' attention is called to the above caption which is to be used on all further documents filed in this appeal. Hon Patricia K Norris - Author
52. 24-Nov-2009 FILED: Motion to Allow Joinder as Amici Curiae of: Voice for Viable Future; Physician's Committee for Responsible Medicine; Animal Law Offices of Adam P. Karp; Maine Friends of Animals; Veterinary Abuse Network; International Society of Animal Rights; And Companion Animal Protection Alliance (Appellant)
53. 30-Nov-2009 ORDERED: granting motion to allow PETA Foundation and the Animal Protection and Rescue League to join as additional Amici Curiae in the amicus curiae brief filed by Animal Defense League of Arizona. Hon Patricia K Norris - Author
54. 18-Dec-2009 ORDERED: Motion to Allow Joinder as Amici Curiae of: Voice for Viable Future; Physician's Committee for Responsible Medicine; Animal Law Offices of Adam P. Karp; Maine Friends of Animals; Veterinary Abuse Network; International Society of Animal Rights; And Companion Animal Protection Alliance (Appellant)= DENIED. Hon Patricia K Norris - Author
55. 18-Dec-2009 ORDERED: amending the appellate caption to Willaim Langhofer, D.V.M.; and Scottsdale Veterinary Clinic. Counsels' attention is called to the above caption which is to be used on all further documents filed in this appeal. Hon Patricia K Norris - Author
56. 22-Dec-2009 MEMORANDUM DECISION (Affirmed) Hon Patricia K Norris - Author; Hon Sheldon H Weisberg - Concur; Hon Margaret H Downie - Concur (Dept B)
57. 22-Dec-2009 FILED: Memorandum Decision Distribution List
58. 22-Dec-2009 OPINION (Affirmed) Hon Patricia K Norris - Author; Hon Sheldon H Weisberg - Concur; Hon Margaret H Downie - Concur (Dept B)
59. 22-Dec-2009 FILED: Letter, 12/22/09, to West Publishing Co re: Opinion filed 12/22/09
60. 22-Dec-2009 FILED: Opinion Distribution List
61. 6-Jan-2010 FILED: Motion for Reconsideration (Appellant)
62. 6-Jan-2010 FILED: Appellees' Statement of Costs (Appellee)
63. 13-Jan-2010 ORDERED: Motion for Reconsideration (Appellant) = DENIED. Hon Patricia K Norris - Author
64. 21-Jan-2010 RECEIPT No.: 2010-00091 ; \$280.00, Check Number: #3365, Applied to: DAVID KAUFMAN - Petition for Review Filing Fee Paid for: - By Ahwatukee Legal Office, PA
65. 21-Jan-2010 FILED: Petition for Review (Appellant)
66. 21-Jan-2010 FILED: Notice of Appearance (David Abney as Co-Counsel for Appellant)
67. 22-Jan-2010 FILED: Letter forwarding partial record to Arizona Supreme Court