

Wisconsin Supreme Court and Court of Appeals Case Access

Yasmine Clark v. American Cyanamid Company

Appeal Number 2014AP000775

Court of Appeals District 1

CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	CA	11-07-2016		Remittitur
OCCD	CA	09-20-2016		Opinion/Decision Judge Panel: Kessler, LaRocque, Brash Opinion: Summary Disposition Decision: Dismissed Pages: 10 Order Text: IT IS ORDERED that the appeal is summarily dismissed pursuant to Wis. Stat. Rule 809.21 and the cause remanded to the trial court for further proceedings.
OCCD	CA	09-06-2016		Submitted on Briefs
OCCD	CA	08-16-2016		Briefs Received At State Law Library Comment: Not retained at law library (Supplemental Briefs)
OCCD	CA	08-03-2016		Attorney address updated Comment: Address changed for attorney: 16289 Daniel T. Flaherty
OCCD	CA	07-27-2016		Other Brief Other Brief- Attorney General in support of Defendants-Appellants Filed By: Luke Berg Comment: Attorney General Suppl. Amicus Curia Brief
OCCD	CA	07-25-2016		Other Brief Other Brief - Supplemental Reply Brief- American Cyanamid Co., Armstrong Containers, Inc., E.I. Dupont De Nemours and Company, Atlantic Richfield Company and The Sherwin-Williams Company Filed By: Jeffrey Spoerk Comment: Suppl. Reply Brief - American Cyanamid Co., Armstrong Containers, Inc., E.I. Dupont De Nemours and Company, Atlantic Richfield Company and The Sherwin-Williams Company Appendix to Other Brief

OCCD CA 07-20-2016

Other Brief

[Other Brief -Supplemental Brief of Respondent\(s\) - Yasmine Clark](#)

Comment: Yasmine Clark

OCCD CA 06-30-2016

Other Brief

[Other Brief- Supplemental Brief of Appellant\(s\) - American Cyanamid Co., Armstrong Containers, Inc., E.I. Dupont De Nemours and Company, Atlantic Richfield Company and The Sherwin-Williams Company](#)

Comment: Supplemental Brief - American Cyanamid Co., Armstrong Containers, Inc., E.I. Dupont De Nemours and Company, Atlantic Richfield Company and The Sherwin-Williams Company

OCCD CA 05-12-2016

Motion for Miscellaneous Relief

Filed By: Jeffrey Spoerk

Submit Date: 5-19-2016

Decision: (O) Other

Decision Date: 6-10-2016

ORD that this court will rely on the briefs filed in the Wisconsin Supreme Court, but will also allow limited supplemental briefing as outlined in this order.

FRO that the Defendants-Appellants and Attorney Generals motions for supplemental briefing and oral argument are granted in part and denied in part. This court will establish a slightly shorter supplemental briefing schedule than requested, and it will decide after supplemental briefing whether to schedule oral argument. Only those who have filed supplemental briefs will be allotted time to participate in oral argument (if it is ultimately scheduled).

FRO that the Defendants-Appellants shall file their supplemental appellants brief within 20 days of the date of this order and the format shall be consistent with WIS. STAT. RULE 809.19(8), (9), (12), and (13), except the length of the brief may not exceed 10 pages if a monospaced font is used or 2,250 words if a proportional serif font is used.

FRO that the Plaintiff-Respondent shall file her supplemental response brief within 20 days after the date on which the court accepts the Defendants-Appellants supplemental appellants brief for filing. The format shall be consistent with WIS. STAT. RULE 809.19(8), (9), (12), and (13), except the length of the brief may not exceed 10 pages if a monospaced font is used or 2,250 words if a proportional serif font is used.

FRO that the Defendants-Appellants shall file their supplemental reply brief within five days after the date on which the court accepts the Plaintiff-Respondents supplemental response brief for filing. The format shall be consistent with WIS. STAT. RULE 809.19(8), (9), (12), and (13), except the length of the brief may not exceed 5 pages if a monospaced font is used or 1,125 words if a proportional serif font is used.

FRO that if the Attorney General chooses to file a supplemental amicus

Comment: procedural motion for supplemental briefing and oral argument; 5/16/16 rcv'd add'l duplicate copies of motion; 5/18/16 rcvd. motion supporting def-app motion and for oral arg. time from Luke Berg

OCCD CA 05-11-2016

Other Papers

Comment: ltr. from Atty. Earle asking if CA wishes to decide case based on briefs filed in Supreme Court or if further briefing will be ordered.

OCCD SC 04-15-2016

Cites

367 Wis. 2d 540

OCCD SC 04-15-2016

Cites

877 N.W.2d 117

OCCD SC 04-15-2016 Court Changed to Court of Appeals

OCCD SC 04-15-2016 [Opinion/Decision](#)

Judge Panel: Roggensack, Abrahamson, Bradley, Prosser, Ziegler, Gableman, Bradley

Opinion: Opinion

Decision: Remanded to Court of Appeals Pages: 2

Order Text: The order granting certification is vacated and the cause is remanded to the court of appeals.

REBECCA G. BRADLEY, J., did not participate.

OCCD SC 04-13-2016 Public Domain Citation

Comment: PDC No: 2016 WI 24

OCCD SC 04-12-2016 Other Papers

Comment: ltr. from DSG Berg responds with citation to SC case he mentioned during 4/5/16 oral argument. Case is Bank Markazi v. Petersoh, Docket No. 14-770.

OCCD SC 04-05-2016 Oral Argument

Comment: at 1:30 p.m. Atty Leon F. DeJulius for Def-App; Atty Luke N. Berg Amicus Curiae for Def-App; Atty Fidelma L. Fitzpatrick for Pla-Res; Atty Peter G. Earle for Pla-Res

OCCD SC 03-14-2016 Briefs Received At State Law Library

OCCD SC 03-09-2016 Rejected Electronic Document

Comment: 14AP775 - Appendix to Response to motion, it is not a requirement to e-file an appendix to a response to a motion.

OCCD SC 03-09-2016 Rejected Electronic Document

Comment: 14AP775 - Response to motion, it is not a requirement to e-file a response to a motion.

OCCD SC 03-08-2016 [Reply Brief-Supreme Court](#)
[Reply Brief-Supreme Court](#)

Filed By: James Goldschmidt

OCCD SC 03-08-2016 [Brief of Amicus Curiae](#)
[Brief of Amicus Curiae - Non-Party Brief Of The Attorney General In Support Of The Defendants-Appellants](#)

Filed By: Luke Berg

Comment: Non-Party Brief Of The Attorney General In Support Of The Defendants-Appellants

OCCD SC 03-08-2016 [Response Brief-Supreme Court](#)
[Response Brief-Supreme Court](#)

Filed By: Peter Earle

OCCD SC 02-16-2016 Briefs Received At State Law Library

OCCD SC 02-08-2016 Motion for Miscellaneous Relief

Filed By: Luke Berg

Submit Date: 2-8-2016

Decision: (G) Grant

Decision Date: 3-8-2016

IT IS ORDERED that the motion is granted. The Wisconsin Attorney Generals amicus brief is accepted for filing, and the Wisconsin Attorney General shall participate in the oral argument using 10 minutes of defendants-appellants' allotted time for argument.

REBECCA G. BRADLEY, J., did not participate.

SHIRLEY S. ABRAHAMSON, J. (concurring in part).

Motion Response

Filed By: Peter Earle

Submit Date: 2-15-2016

Motion Response

Filed By: Luke Berg

Submit Date: 2-15-2016

Motion Response

Filed By: Peter Earle

Submit Date: 2-22-2016

Motion Response

Filed By: Peter Earle

Submit Date: 2-26-2016

Motion Response

Filed By: Luke Berg

Submit Date: 2-29-2016

Comment: Attorney General In Support of Defendants-Appellants file Amicus Brief/ be allotted oral argument time

OCCD SC 01-25-2016 Motion to Take Judicial Notice

Filed By: Victor Harding

Submit Date: 1-25-2016

Decision: (O) Other

Decision Date: 3-8-2016

IT IS ORDERED that the motion is granted as to Exhibits 1-3 and denied as to Exhibits 4-7. Legislative history, such as that contained within Exhibits 1-3, is properly subject to judicial notice, and defendants-appellants do not argue otherwise. See, e.g., Czapinski v. St. Francis Hosp., Inc., 2000 WI 80, 24, 236 Wis. 2d 316, 613 N.W.2d 120. As to Exhibits 4-7, however, Ms. Clark has failed to establish, as material here, that the information in those documents cannot reasonably be questioned, see Wis. Stat. 902.01(2)(b), or that the information is relevant to the issues before the court.

REBECCA G. BRADLEY, J., did not participate.

SHIRLEY S. ABRAHAMSON, J., (concurring in part and dissenting in part).

ANN WALSH BRADLEY, J. (concurring in part and dissenting in part).

Motion Response

Filed By: James Goldschmidt

Submit Date: 2-3-2016

OCCD SC 01-19-2016 Other Papers

Comment: ret. mail, Atty. Fitzpatrick's copy of ack. of filing First SC Brief, updated address, remailed

OCCD SC 01-15-2016 Motion to Extend Time

Filed By: Peter Earle

Submit Date: 1-15-2016

Decision: (G) Grant

Decision Date: 1-15-2016

IT IS ORDERED that the motion is granted. Plaintiff-respondent's response brief shall be served and filed on or before January 25, 2016.

See BR2 event due on 1-25-2016

OCCD SC 01-04-2016 Motion for Pro Hac Vice status

Filed By: James Goldschmidt

Submit Date: 1-6-2016

Decision: (G) Grant

Decision Date: 1-7-2015

IT IS ORDERED the motion is granted. A copy of SCR 10.34(4), setting forth the requirements for attorneys appearing pro hac vice, is attached to the moving party's order. Rebecca G. Bradley, J. did not participate.

Comment: (Add'l copies of motion rcv'd on 1/6/16)

OCCD SC 12-30-2015 [First Brief-Supreme Court](#)
[First Brief-Supreme Court](#)

Filed By: James Goldschmidt

Comment: separate appendix

OCCD SC 12-02-2015 Court Changed to Supreme Court

OCCD CA 12-02-2015 Hold Status

OCCD SC 09-29-2015 Certification Filed

Filed By: Supreme Court Supreme Court

Submit Date: 10-2-2015

Decision: (G) Grant

Decision Date: 12-2-2015

IT IS ORDERED the certification is granted and the appeal is accepted for consideration of all issues raised before the court of appeals. When this court grants direct review upon certification, it acquires jurisdiction of the case, Wis. Const. art. VII, 3(3), that is, the entire appeal, which includes all issues, not merely the issues certified or the issue for which the court accepts the certification. State v. Stoehr, 134 Wis. 2d 66, 70, 396 N.W.2d 177 (1986); Wis. Stat. 808.05(2) and (Rule) 809.61. Further, the court has jurisdiction over issues not certified because the court may review an issue directly on its own motion. Wis. Stat. 808.05(3); and IT IS FURTHER ORDERED that within 30 days after the date of this order the appellant must file either a brief in this court or a statement that no brief will be filed; that within 20 days of filing, the respondent must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the respondent, within 10 days of filing, the appellant must file either a reply brief or a statement that no reply brief will be filed; and IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief; instead, any material upon which there is reliance should be restated in the brief filed in this court; and IT IS FURTHER ORDERED that in the event any party elects not to file a brief in this court, the briefs previously submitted by that party to the court of appeals shall stand as that party's brief in the Supreme Court; and IT IS FURTHER ORDERED that within the time period established for the filing of briefs, each party must provide the clerk of this court with copies of the briefs previously filed on behalf of that party in the court of appeals. If a party elects to file a new brief(s), 10 copies of their court of appeals brief(s) must be provided. If a party elects to stand on their court of appeals brief(s), 17 copies of each of their court of appeals brief(s) must be provided. IT IS FURTHER ORDERED that the parties shall be notified of the date and time for oral argument in this appeal in due course. Rebecca G. Bradley, J., did

not participate.
See DEC event filed on 9-29-2015

OCCD CA 09-29-2015 [Opinion/Decision](#)
Judge Panel: Kessler, Curley, Bradley
Opinion: Certification
Decision: Certification Filed Pages: 14
Order Text: For the foregoing reasons, we respectfully request the supreme courts guidance regarding whether applying WIS. STAT. 895.046 retroactively deprives Clark of a vested property right in violation of the due process protections guaranteed by Article I, Section I of the Wisconsin Constitution.

OCCD CA 08-03-2015 Submitted on Briefs

OCCD CA 07-21-2015 Rejected Electronic Document
Comment: The letter is being rejected because letters are not accepted under the e filing rule at this time.

OCCD CA 07-21-2015 Rejected Electronic Document
Comment: The motion is being rejected because motions are not accepted under the e filing rule at this time.

OCCD CA 07-17-2015 Motion to Correct/Supplement Record
Filed By: James Goldschmidt
Submit Date: 7-21-2015
Decision: (D) Deny
Decision Date: 9-29-2015
IT IS ORDERED the motion is denied. (footnote 2 of cert)
Motion Response
Filed By: Peter Earle
Submit Date: 7-21-2015
Comment: 07/21/15, Rec'd response

OCCD CA 06-01-2015 Attorney Change
Comment: Letter from Gass Weber Mullins, LLC to withdraw Hanan, Hanan Withdrawn

OCCD CA 05-26-2015 Other Papers
Comment: Letter from Atty. Earle informing us US SC denied writ of certiorari

OCCD CA 04-30-2015 Briefs Received At State Law Library

OCCD CA 04-16-2015 Record and Briefs Sent to District 1

OCCD CA 04-14-2015 [Reply Brief](#)
[Reply Brief](#)
Filed By: Jeffrey Spoerk
Comment: received 10 copies of BRY for SC use. PS 3-1-2016

OCCD CA 03-09-2015 Attorney Change
Comment: Rec'd Notice of Appearance, Added V. C. Harding, Counsel for Pla-Res

OCCD CA 03-03-2015 Motion to Dismiss
Filed By: Peter Earle
Submit Date: 3-19-2015
Decision: (D) Deny
Decision Date: 3-30-2015
IT IS ORDERED that the motion to dismiss and remand is denied. IT IS FURTHER ORDERED that the reply brief in this matter shall be filed within fifteen days of the date of this order.
Motion Response
Filed By: James Goldschmidt
Submit Date: 3-19-2015
Comment: and Remand for Trial; 03/10/15, Rec'd Sherwin-Williams Rsp

OCCD CA 02-26-2015 Rejected Electronic Document
Comment: This Electronic Version of the Respondent's brief appendix cover is rejected due to an incorrect party designation. Please reload a corrected version of your brief and notify the Deputy 1 clerk when done. (The appendix is optional)

OCCD CA 02-26-2015 Rejected Electronic Document
Comment: This Electronic Version of the Respondent's brief is rejected due to an incorrect party designation. Please reload a corrected version of your brief and notify the Deputy 1 clerk when done.

OCCD CA 02-26-2015 Certificate of Service
Comment: BRS (IB)

OCCD CA 02-26-2015 [Brief of Respondent\(s\)](#)
[Brief of Respondent\(s\)](#)
Filed By: Peter Earle
Comment: Separate Appendix. Please note an appendix certification has been added to this brief. See Rule 809.19(2) regarding requirements. Please note the party designation on the caption was corrected on the covers of this brief. Please use the above caption on all future briefs. Received 10 copies of CA BRS and separate appendix for SC use 1/25/16 EW

OCCD CA 01-28-2015 Rejected Electronic Document
Comment: 3 electronic versions of the Appellant's brief were uploaded for an unknown reason. This version is being rejected to avoid duplicity in the electronic document queue for this case.

OCCD CA 01-28-2015 Rejected Electronic Document
Comment: 3 electronic versions of the Appellant's brief were uploaded for an unknown reason. This version is being rejected to avoid duplicity in the electronic document queue for this case.

OCCD CA 01-28-2015 Certificate of Service
Comment: BAP (IB)

OCCD CA	01-28-2015	Brief & Appx of Appellant(s) Brief of Appellant(s)
Filed By: Jeffrey Spoerk		
Comment: Separate Appendix: received 10 copies of BAP and appendix for SC use. PS 3-1-2016		
OCCD CA	12-29-2014	Notice of Voluntary Dismissal Filed
Comment: Rec'd from NL Industries, Inc.; N/A; (Not a party to this appeal)		
OCCD CA	12-17-2014	Record
Comment: 1-19 to 498-22, 5 Separate Boxes		
OCCD CA	11-11-2014	Motion for Stay
Filed By: Michael Wirth		
Submit Date: 11-11-2014		
Decision: (G) Grant		
Decision Date: 11-12-2014		
IT IS ORDERED that transmittal of the record in this matter to the court of appeals is stayed through December 10, 2014, or until further order of this court.		
Comment: the submission of the REC		
OCCD CA	10-24-2014	Delinquent
Comment: New due date of connected REC: 11-10-2014		
OCCD CA	09-22-2014	Other Papers
Comment: Mail returned from E. Echtman marked RTS, unable to forward, not at Milw HOC (1001 notice); Resent to updated address		
OCCD CA	09-10-2014	Letter/Correspondence
Comment: Rcv'd returned 8/27/14 mailing for Atty. Echtman, updated demographics and resent.		
OCCD CA	09-09-2014	Pro Hac Vice Letter
OCCD CA	09-08-2014	Caption Amended
OCCD CA	09-08-2014	Docketing Statement from Appellant
OCCD CA	09-08-2014	Statement on Transcript
Filed By: Jeffrey Spoerk		
Status: Prev. Filed		
Comment: 10/15/14, Provided copy of SRT to Circ. Ct. APP did not serve them		
OCCD CA	08-27-2014	Notif. Sent-Filing of LVO & Court Record
OCCD CA	08-27-2014	Copy of CTO Grtg. PLV-from Cir. Ct.

OCCD CA	08-25-2014	Copy of CTO Grtg. PLV Filed in Cir. Ct.
---------	------------	---

OCCD CA	08-14-2014	Additional Authorities
		Comment: Copy of petition filed in federal court.Rcvd additional copies for court 8/19/2014.

OCCD CA	08-11-2014	Additional Authorities
		Comment: Copy of petition filed in federal court

OCCD CA	08-04-2014	Additional Authorities
		Comment: Plaintiff-Respondent filed

OCCD CA	04-25-2014	Additional Authorities
		Comment: filed by James T. Murray, Jr.

OCCD CA	04-16-2014	Letter/Correspondence
		Comment: GAL Gramling's notices returned by PO - resent to address on state bar website

OCCD CA	04-09-2014	Fee Paid
		Comment: Receipt No: 14R 000971

OCCD CA	04-08-2014	Petition for Leave to Appeal
		Filed By: Michael Wirth
		Submit Date: 4-22-2014
		Decision: (G) Grant
		Decision Date: 8-21-2014
		IT IS ORDERED that the petition for leave to appeal is granted. Entry of this order has the effect of the filing of a notice of appeal. See Wis. Stat. Rule 809.50(3)(2011-12). A copy of this order has been forwarded to the clerk of the circuit court. Pursuant to Wis. Stat. Rule 809.11(2), the clerk shall return this order and the docket entries maintained pursuant to Wis. Stat 59.4 within three days of receipt of this order.
		Motion Response
		Filed By: Peter Earle
		Submit Date: 4-22-2014
		Comment: separate appendix

OCCD CA	03-25-2014	Non-Final Order of Circuit Court
---------	------------	----------------------------------
