



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**KAREN LYNN BOLLERMAN v. STEPHAN MICHAEL NOWLIS
CV-13-0279-PR**

PARTIES:

Petitioner: Karen Lynn Bollerman (“Mother”)

Respondent: Stephan Michael Nowlis (“Father”)

FACTS:

The parties share joint custody of their two minor children. On November 3, 2009, Father filed a Petition to Modify Parenting Time and Child Support. Subsequently, the parties filed several additional post-decree petitions. The superior court set an evidentiary hearing for September 6, 2011, “regarding [Father’s] Petition to Modify Parenting Time and Child Support filed November 3, 2009; [Mother’s] Petition for Order to Show Cause Re: Contempt filed December 2, 2009; [Mother’s] Counter-Petition to Adjust Expense Percentages, and to Specify Cell Phone Expense filed December 2, 2009; [Father’s] Petition to Modify Parenting Time Re: Relocation filed May 10, 2010; and [Mother’s] Petition for Order to Show Cause Re: Contempt Re: Parenting Time filed June 2, 2010.” *See* minute entry filed September 14, 2011

In a signed, under-advisement minute entry filed November 1, 2011, the superior court entered a “JUDGMENT/DECREE” disposing of most pending issues. The ruling contains no language pursuant to Rule 78(B), Ariz. R. Fam. Law P., or its civil equivalent, Rule 54(b), Ariz. R. Civ. P. The court noted, however, that it “recognizes that the issue of the 2010-2011 unreimbursed medical expenses is still at issue and set for a hearing on November 10, 2011.” The court also denied Mother’s request for attorneys’ fees and costs.

At the “[c]ontinued” hearing on November 10, 2011, the superior court vacated its November 1, 2011 ruling on attorneys’ fees and ordered that fees “shall abide final orders.” The court also vacated the evidentiary hearing set on November 10 and reset the matter “regarding the issue of attorneys’ fees and the 2010/2011 unreimbursed expenses on January 30, 2012.” *See* minute entry filed November 17, 2011. The hearing was continued two additional times until August 22, 2012.

In a minute entry filed May 9, 2012, the superior court denied Mother’s Request for Clarification, observing that “Mother did not request a new trial or otherwise seek to appeal the Court’s October 31, 2011 [filed November 1, 2011] ruling.”

On August 22, 2012, the superior court held an “Evidentiary Hearing on Petitioner’s Petition

for Order to Show Cause Re: Contempt filed September 2, 2011.” In a signed minute entry filed September 12, 2012, the superior court issued a “JUDGMENT” on the remaining issues. The court stated that it had “also considered the reasonableness of the parties as set forth above and as set forth in the Court’s October 31, 2011 [filed November 1, 2011] order” in determining attorneys’ fees.

On October 11, 2012, Mother filed her Notice of Appeal from both the November 1, 2011 order and the September 12, 2012 order. Mother filed her Opening Brief on April 8, 2013. On June 19, 2013, Father filed a Request for Determination of Jurisdiction and Motion to Extend Briefing Schedule.

In an “ORDER RE: REQUEST FOR DETERMINATION OF JURISDICTION,” filed August 2, 2013, the court of appeals dismissed Mother’s appeal from the November 1, 2011 order for lack of jurisdiction and struck her opening brief. The court reasoned as follows:

Appellant filed a notice of appeal on October 11, 2012 from a September 12, 2012 signed minute entry and a November 1, 2011 signed minute entry. To perfect jurisdiction in this court, a notice of appeal must be filed no later than 30 days after entry of a judgment or order. *See Arizona Rules of Civil Appellate Procedure 9(a)*. The November 1, 2011 order was a final appealable order. *See Reeck v. Mendoza*, 1 CA-CV 12-0158, 2013 WL 3242210 (Ariz. Ct. App. June 27, 2013). The notice of appeal is therefore untimely insofar as it relates to the November 1, 2011 order.

On September 3, 2013, Mother filed her petition for review in this Court. Father filed his response on October 8, 2013. In an order filed September 5, 2013, the court of appeals stayed the appeal “until after the Arizona Supreme Court either denies review in CV-13-0279-PR or issues an opinion in that matter.”

ISSUES PRESENTED FOR REVIEW:

1. Whether conflicting Court of Appeals decisions about the finality of family law judgments and the ability to appeal from them create uncertainty and confusion among the bench and the bar on a recurring issue of statewide importance?
2. Did the Arizona Court of Appeals err and abuse its discretion by denying Petitioner the right to appeal a judgment through the incorrect retroactive application of recent case law that conflicted with precedent?

This Summary was prepared by the Arizona Supreme Court Staff Attorney’s Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum or other pleading filed in this case.