



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**CARRANZA v. MADRIGAL, et al.
CV-14-0192-PR**

PARTIES:

Petitioners/Defendants: Martha Madrigal and Bryant Madrigal

Respondent/Plaintiff: Al Carranza (“Carranza”)

FACTS:

Overview. This petition arises out of the Court of Appeals’ reversal of the superior court’s denial of Carranza’s motion under Civil Procedure Rule 17(a) to substitute his assignor (and counsel), Edward D. Fitzhugh (“Fitzhugh”), as the real party in interest in the case.

Factual Background. In 2003, Martha and Mario Madrigal’s son, Mario Jr., was shot and killed by the Mesa police, leading them to bring a wrongful death action against the City of Mesa. Fitzhugh represented them during the initial phases of the case. The Madrigals entered a contingent fee agreement with Fitzhugh providing, among other things, that if Fitzhugh withdrew from the case “for any reason,” he would still be entitled to twenty-five percent of any recovery they later obtained. After about fourteen months of work on the case, Fitzhugh withdrew as counsel. The Madrigals later succeeded in settling the case for several million dollars. Fitzhugh then made a demand for \$680,000, reflecting what he calculated to be twenty-five percent of the settlement. The Madrigals and their counsel rejected that demand.

In March 2010, Fitzhugh assigned his right to payment under the fee agreement to Carranza, and Carranza filed suit against the Madrigals for the claimed contingency amount, asserting claims of breach of contract, breach of the covenant of good faith and fair dealing, unjust enrichment and quantum meruit (“the fee collection action”). That action was later consolidated with an interpleader action brought by the Madrigals’ lawyer in the earlier tort action because of the conflicting demands on the Madrigals’ settlement funds.

In July 2011, Martha Madrigal moved for summary judgment in the fee collection action, arguing that Fitzhugh’s twenty-five percent contingency was unenforceable because it violated public policy and created a conflict of interest. It also specifically argued that Carranza had no proper legal interest in the contract at issue or in the settlement funds. In January 2012, the superior court granted summary judgment in Madrigal’s favor, ruling that the fee agreement and assignment “violate numerous ethical rules and violate public policy” and therefore were “unenforceable.”

In late July 2011, the day after Martha Madrigal filed her summary judgment motion, Carranza filed a motion under Civil Procedure Rule 17(a) to substitute Fitzhugh as the real party in interest in the fee collection action. The superior court ultimately denied leave to substitute Fitzhugh for Carranza in both the interpleader action and the fee collection action. It reasoned that

Carranza was the real party in interest in the interpleader action because he was the person who had made the demand for funds on the Madrigals' lawyer. As to the fee collection action, the court reasoned that substitution was inappropriate because the validity of the assignment to Carranza had been in dispute for more than a year and that Madrigal had been prejudiced by Fitzhugh's "lengthy and deliberate delay." It also noted that "[t]his is not a case where the failure to name the real party is the result of an 'understandable mistake or difficulty determining the proper party.' It was the result of a conscious decision on the part of Mr. Fitzhugh."

After the ruling, Carranza filed a motion for reconsideration and a motion for a hearing. In the latter motion, Carranza argued that the claim in quantum meruit was still "viable." The court denied the motion and entered judgment in the Madrigals' favor in both the fee collection and the interpleader actions.

The Court of Appeals' Ruling. The Court of Appeals affirmed the superior court's grant of summary judgment as to the enforceability of the twenty-five percent contingent fee agreement provision but reversed the order denying Carranza's motion to substitute Fitzhugh as the real party in interest. The court found that under the assignment from Fitzhugh to Carranza, Carranza had standing to pursue legal claims brought on the unenforceable contingent fee provision, but that he was not assigned, and therefore did not have standing to pursue, Fitzhugh's equitable claim to quantum meruit damages. Rather, the court continued, "only Fitzhugh (not Carranza) is the holder of and the real party in interest for the potential equitable claims that remain."

The court then turned to the superior court's decision. It noted that under Civil Procedure Rule 17(a), "[e]very action shall be prosecuted in the name of the real party in interest." It noted that despite that rule, the superior court denied Carranza's motion to substitute on the ground that the "failure to name Fitzhugh as the real party in interest was not the result of an 'understandable mistake or difficulty determining the proper party,' but upon Fitzhugh's conscious decision to make Carranza the plaintiff." That was not a sufficient reason to deny substitution, the court contended, because the Arizona Supreme Court had previously ruled that substitution "does not require a plaintiff to show that an initial failure to name the real party in interest resulted from an understandable mistake or difficulty in identifying the proper party." (Quoting *Preston v. Kindred Hosps. W. LLC*, 226 Ariz. 391, 392 ¶ 1, 249 P.3d 771, 772 (2011).). As such, the court concluded, Fitzhugh was not precluded from pursuing the equitable claims as the real party in interest.

ISSUES:

According to the petitioners, there are three issues:

1. Did the Trial Court Have the Discretion to Deny Substitution Under Rule 17(a)?
2. Did the Trial Court Have the Discretion to Deny Substitution Under Rule 15(a)?
3. Was Carranza the Real Party in Interest to the Interpleader Action?

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' 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.