

Arizona Supreme Court

Civil Transfer Appeal

CV-21-0058-T/AP

KAREN FANN et al v STATE OF ARIZONA et al

Appellate Case Information

Case Filed: 4-Mar-2021
Case Closed:

Dept/Composition

En Banc

Hon. Robert Brutinel
Hon. Ann A. Scott Timmer
Hon. Clint Bolick
Hon. John R. Lopez
Hon. James P. Beene
Hon. William G. Montgomery
Hon. Paul J. McMurdie

Side 1. KAREN FANN, et al., Plaintiff/Appellant

(Litigant Group) KAREN FANN, et al.

- Karen Fann
- Russell Bowers
- David Gowan
- Venden Leach
- Regina Cobb
- John Kavanagh
- Montie Lee
- Steve Pierce
- Francis Surdakowski
- No on 208
- Arizona Free Enterprise Club

Attorneys for: Plaintiff/Appellant

Dominic Emil Draye, Esq. (AZ Bar No. 33012)
Brett William Johnson, Esq. (AZ Bar No. 21527)
Colin P Ahler, Esq. (AZ Bar No. 23879)
Tracy Olson, Esq. (AZ Bar No. 34616)
Jonathan Matthew Riches, Esq. (AZ Bar No. 25712)
Timothy Sandefur, Esq. (AZ Bar No. 33670)

Side 2. STATE OF ARIZONA, et al., Defendant/Appellee

(Litigant Group) STATE OF ARIZONA, et al.

- State of Arizona
- Arizona Department of Revenue

Attorneys for: Defendant/Appellee

Brian M Bergin, Esq. (AZ Bar No. 16375)
Kevin M Kasarjian, Esq. (AZ Bar No. 20523)

(Litigant Group) KIMBERLY YEE (Arizona State Treasurer)

- Kimberly Yee, State of Arizona

Attorneys for: Defendant/Appellee

Stephen W Tully, Esq. (AZ Bar No. 14076)
Bradley L Dunn, Esq. (AZ Bar No. 28897)

Side 3. INVEST IN EDUCATION, et al., Intervenor/Appellee

(Litigant Group) INVEST IN EDUCATION, et al.

- Invest in Education Committee
- David Lujan

Attorneys for: Intervenor/Appellee

Roopali H Desai, Esq. (AZ Bar No. 24295)
D Andrew Gaona, Esq. (AZ Bar No. 28414)
Kristen M Yost, Esq. (AZ Bar No. 34052)
Daniel J Adelman, Esq. (AZ Bar No. 11368)

Side 4. GOVERNOR DOUGLAS A. DUCEY AND THE OFFICE OF STRATEGIC PLANNING & BUDGETING, Amicus Curiae

(Litigant Group) GOVERNOR DOUGLAS A. DUCEY AND THE OFFICE OF STRATEGIC PLANNING & BUDGETING

- Doug Ducey, Office of the Governor
- Office of Strategic Planning & Budgeting

Attorneys for: Amicus Curiae

Anni L Foster, Esq. (AZ Bar No. 23643)
Nicole Ong Colyer, Esq. (AZ Bar No. 26332)

Side 5. ARIZONA SCHOOL BOARDS ASSOCIATION, Amicus Curiae

(Litigant Group) ARIZONA SCHOOL BOARDS ASSOCIATION

- Arizona School Boards Association

Attorneys for: Amicus Curiae

Joel W Nomkin, Esq. (AZ Bar No. 11939)
Austin Yost, Esq. (AZ Bar No. 34602)
Kathryn E Boughton, Esq. (AZ Bar No. 36105)

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Side 6. ARIZONA BUSINESS LEADERS, Amicus Curiae

(Litigant Group) ARIZONA BUSINESS LEADERS

- Craig Ahlstrom
- Martha Knight
- Stephen McConnell
- John Smeck
- Gabriel Woodruff
- Hannah Woodruff

Attorneys for: Amicus Curiae

Aaron Thomas Martin, Esq. (AZ Bar No. 28358)

Side 7. POTENTIAL BALLOT INITIATIVE PROPONENTS

, Amicus Curiae

(Litigant Group) POTENTIAL BALLOT INITIATIVE PROPONENTS

- The Arizona Advocacy Network Foundation
- Arizona Wins
- Ballot Initiative Strategy Center
- Living United for Change in Arizona (LUCHA)

Attorneys for: Amicus Curiae

James E Barton, II, Esq. (AZ Bar No. 23888)

Jacqueline Soto, Esq. (AZ Bar No. 22597)

Side 8. KATHY HOFFMAN (IN HER OFFICIAL CAPACITY AS SUPERINTENDENT OF PUBLIC INSTRUCTION), Amicus Curiae

(Litigant Group) KATHY HOFFMAN (IN HER OFFICIAL CAPACITY AS SUPERINTENDENT OF PUBLIC INSTRUCTION)

- Kathy Hoffman, Arizona Department of Education

Attorneys for: Amicus Curiae

Mary R O'Grady, Esq. (AZ Bar No. 11434)

Joshua David Rothenberg Bendor, Esq. (AZ Bar No. 31908)

Side 9. ARIZONA COMMERCE AUTHORITY, Amicus Curiae

(Litigant Group) ARIZONA COMMERCE AUTHORITY

- Arizona Commerce Authority

Attorneys for: Amicus Curiae

Timothy J Berg, Esq. (AZ Bar No. 4170)

Emily Ayn Ward, Esq. (AZ Bar No. 29963)

Bradley J Pew, Esq. (AZ Bar No. 33876)

Taylor N Burgoon, Esq. (AZ Bar No. 33970)

Side 10. AMERICANS FOR TAX REFORM AND ARIZONA SMALL BUSINESS ASSOCIATION, Amicus Curiae

(Litigant Group) AMERICANS FOR TAX REFORM AND ARIZONA SMALL BUSINESS ASSOCIATION

- Americans for Tax Reform
- Arizona Small Business Association

Attorneys for: Amicus Curiae

Gregory W Falls, Esq. (AZ Bar No. 11206)

Craig A Morgan, Esq. (AZ Bar No. 23373)

Side 11. REBECCA RIOS AND REGINALD BOLDING, Amicus Curiae

(Litigant Group) REBECCA RIOS AND REGINALD BOLDING

- Rebecca Rios, Arizona House of Representatives
- Reginald Bolding, Jr., Arizona House of Representatives

Attorneys for: Amicus Curiae

Rhonda L Barnes, Esq. (AZ Bar No. 23068)

Jane Ahern, Esq. (AZ Bar No. 34865)

Benjamin Bryce, Esq. (AZ Bar No. 34701)

Lisette Flores, Esq. (AZ Bar No. 23641)

Side 12. ARIZONA FARM BUREAU FEDERATION, Amicus Curiae

(Litigant Group) ARIZONA FARM BUREAU FEDERATION

- Arizona Farm Bureau Federation

Attorneys for: Amicus Curiae

Giselle C Alexander, Esq. (AZ Bar No. 28098)

Side 13. ECONOMISTS ELLIOTT POLLACK AND ALAN MAGUIRE, Amicus Curiae

(Litigant Group) ECONOMISTS ELLIOTT POLLACK AND ALAN MAGUIRE

- Elliott Pollack
- Alan Maguire

Attorneys for: Amicus Curiae

Gregory B Iannelli, Esq. (AZ Bar No. 26549)

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Side 14. SAVE OUR SCHOOLS ARIZONA, EDUCATION LAW CENTER, AND THE SOUTHERN POVERTY LAW CENTER, Amicus Curiae

(Litigant Group) SAVE OUR SCHOOLS ARIZONA, EDUCATION LAW CENTER, AND THE SOUTHERN POVERTY LAW CENTER

- Save Our Schools Arizona
- Education Law Center
- Southern Poverty Law Center

Attorneys for: Amicus Curiae

Susan M Freeman, Esq. (AZ Bar No. 4199)
 Gregory Y Harris, Esq. (AZ Bar No. 9112)
 Bruce E Samuels, Esq. (AZ Bar No. 15996)

Side 15. ARIZONA TAX RESEARCH ASSOCIATION AND ARIZONA CHAMBER OF COMMERCE AND INDUSTRY, Amicus Curiae

(Litigant Group) ARIZONA TAX RESEARCH ASSOCIATION AND ARIZONA CHAMBER OF COMMERCE AND INDUSTRY

- Arizona Tax Research Association
- Arizona Chamber of Commerce and Industry

Attorneys for: Amicus Curiae

Otto S Shill, III, Esq. (AZ Bar No. 10455)
 Jimmie W Pursell, Jr., Esq. (AZ Bar No. 19957)
 Lauren Rose Smith, Esq. (AZ Bar No. 36291)

Side 16. ALLIANCE DEFENDING FREEDOM AND CENTER FOR ARIZONA POLICY, Amicus Curiae

(Litigant Group) ALLIANCE DEFENDING FREEDOM AND CENTER FOR ARIZONA POLICY

- Alliance Defending Freedom
- Center for Arizona Policy

Attorneys for: Amicus Curiae

Tyson Charles Langhofer, Esq. (AZ Bar No. 32589)

Side 17. ERIN SCHARFF, Amicus Curiae

(Litigant Group) ERIN SCHARFF

- Erin Adele Scharff
 AZ Bar No. 35381
 SOLE PRACTITIONER

Attorneys for: Amicus Curiae

Erin Adele Scharff, Esq. (AZ Bar No. 35381)

CASE STATUS

Apr 20, 2021.....Submitted	Mar 23, 2021.....At Issue
Mar 4, 2021.....Pending	

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-CV 21-0087				
↶ MAR	CV2020-015495	Special Action Petition for Declarative and Injunctive Relief	John R Hannah, Authoring Judge of Order Comments: (none) Comments: (none)		
↶ MAR	CV2020-015509				

48 PROCEEDING ENTRIES

1. 4-Mar-2021 On February 26, 2021, Appellants Fann, et al. filed a Petition to Transfer. Defendant/Appellee Kimberley Yee filed a joinder in Appellants' Petition for Transfer on March 2, 2021. Amici Curiae Governor Douglas A. Ducey and the Governor's Office of Strategic Planning and Budgeting filed a brief in support of transfer on March 2, 2021. Intervenors/Appellees Invest in Education, et al., filed a response in opposition on March 2, 2021. After consideration,

IT IS ORDERED granting the Petition to Transfer.

IT IS FURTHER ORDERED that the Clerk of the Supreme Court shall file the transferred matter under case number CV-21-0058-T/AP. This case number shall be used for all filings in this matter.

IT IS FURTHER ORDERED the Clerk of the Court of Appeals, Division One, Phoenix, shall forward the remaining record to the Clerk of the Supreme Court.

IT IS FURTHER ORDERED that this matter will be set for oral argument on the 20th day of April, 2021 at 9:30 am.

IT IS FURTHER ORDERED this Court will accept the Opening Brief filed in Court of Appeals on February 26, 2021.

IT IS FURTHER ORDERED all answering briefs are due no later than March 15, 2021.

IT IS FURTHER ORDERED that any reply briefs and any amicus curiae briefs may be filed no later than March 22, 2021.

IT IS FURTHER ORDERED that responses to any amicus curiae briefs may be filed no later than March 29, 2021.

IT IS FURTHER ORDERED that no extensions will be granted absent extraordinary circumstances. (Hon. Ann A. Scott Timmer)
2. 5-Mar-2021 FILED: Joint Notice Regarding Blanket Consent for Amicus Curiae Briefs; Certificate of Service

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3. 8-Mar-2021 NOTICE OF ORAL ARGUMENT: Set for Tuesday, April 20, 2021 at 9:30 A.M. [twenty minutes (20) per side]
4. 8-Mar-2021 FILED: Notice of Filing Acknowledgment of Oral Argument (Brian Bergin will argue) (Appellee State)
5. 9-Mar-2021 FILED: Notice of Filing Acknowledgment of Oral Argument (Dominic E. Draye will argue) (Appellant Fann, et al.)
6. 9-Mar-2021 FILED: Notice of Filing Acknowledgment of Oral Argument others will argue on behalf of Appellee Yee (Appellee Yee)
7. 11-Mar-2021 FILED: Notice of Filing Acknowledgment of Oral Argument (D. Andrew Gaona will argue) (Appellee)
8. 10-Mar-2021 FILED: Remaining Record from MCSC - CofA (Electronic)
9. 15-Mar-2021 FILED: Answering Brief by Appellees State of Arizona and Arizona Department of Revenue; (Duplicate) Answering Brief by Appellees State of Arizona and Arizona Department of Revenue; (Duplicate) Answering Brief by Appellees State of Arizona and Arizona Department of Revenue (Appellees State, et al.)
10. 15-Mar-2021 FILED: Appendix to Answering Brief by Appellees State of Arizona and Arizona Department of Revenue; (Duplicate) Appendix to Answering Brief by Appellees State of Arizona and Arizona Department of Revenue (Appellees State, et al.)
11. 15-Mar-2021 FILED: Combined Answering Brief and Separate Appendix of Appellees Invest in Education (sponsored by AEA and Stand for Children) and David Lujan; Certificate of Service; Certificate of Compliance (Appellees Invest in Education, et al.)
12. 19-Mar-2021 FILED: Brief of Amicus Curiae Arizona School Boards Association in Support of Affirmance; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona School Board Association)
13. 19-Mar-2021 FILED: Certificate of Allowance (Amicus Curiae Arizona School Board Association)
14. 22-Mar-2021 FILED: Brief of Amici Curiae Arizona Business Leaders in Support of Plaintiffs/Appellants With Approval of the Parties; Certificate of Service; Certificate of Compliance (Amici Curiae Arizona Business Leaders)
15. 22-Mar-2021 FILED: (Copy of) Joint Notice Regarding Blanket Consent for Amicus Curiae Briefs (Amici Curiae Arizona Business Leaders)
16. 22-Mar-2021 FILED: Brief of Amici Curiae Potential Ballot Initiative Proponents; Certificate of Service; Certificate of Compliance; Appendix (Amici Curiae Potential Ballot Initiative Proponents)
17. 22-Mar-2021 FILED: (Copy of) Joint Notice Regarding Blanket Consent for Amicus Curiae Briefs (Amici Curiae Potential Ballot Initiative Proponents)
18. 22-Mar-2021 FILED: Brief of Amicus Curiae Kathy Hoffman in Her Official Capacity As Superintendent of Public Instruction; Certificate of Service; Certificate of Compliance (Amicus Curiae Hoffman)
19. 22-Mar-2021 FILED: (Copy of) CV-21-0058-T/AP Docket (Amicus Curiae Hoffman)
20. 22-Mar-2021 FILED: Brief of Amicus Curiae in Support of Plaintiffs/Appellants; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona Commerce Authority)
21. 22-Mar-2021 FILED: Appendix to Brief of Amicus Curiae in Support of Plaintiffs/Appellants; Certificate of Service (Amicus Curiae Arizona Commerce Authority)
22. 22-Mar-2021 FILED: Consent of All Parties (Amicus Curiae Arizona Commerce Authority)
23. 22-Mar-2021 FILED: Brief of Americans for Tax Reform and Arizona Small Business Association as Amicus Curiae in Support of Appellants; Certificate of Service; Certificate of Compliance (Amici Curiae Americans for Tax Reform/Arizona Small Business Association)
24. 22-Mar-2021 FILED: Certificate of Allowance (Amici Curiae Americans for Tax Reform/Arizona Small Business Association)
25. 22-Mar-2021 FILED: Appellants' Reply Brief; Certificate of Service; Certificate of Compliance (Appellant Fann et al.)
26. 22-Mar-2021 FILED: Brief of Amici Curiae Senate Minority Leader Rebecca Rios and House Minority Leader Reginald Bolding; Certificate of Service; Certificate of Compliance (Amici Curiae Rios/Bolding)
27. 22-Mar-2021 FILED: Certificate of Consent (Amici Curiae Rios/Bolding)
28. 22-Mar-2021 FILED: Brief of Amicus Curiae Arizona Farm Bureau Federation in Support of Plaintiffs'/Appellants' Opening Brief; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona Farm Bureau Federation)
29. 22-Mar-2021 FILED: Certificate of Consent by all parties for Brief of Amicus Curiae Arizona Farm Bureau Federation in Support of Plaintiffs/Appellants' Opening Brief (Amicus Curiae Arizona Farm Bureau Federation)

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30. 22-Mar-2021 FILED: Brief of Economists Elliott Pollack and Alan Maguire as Amici Curiae in Support of Reversal; Certificate of Service; Certificate of Compliance (Amici Curiae Pollack/Maguire)
31. 22-Mar-2021 FILED: Certificate of Allowance (Amici Curiae Pollack/Maguire)
32. 22-Mar-2021 FILED: Amici Curiae Brief of Save Our Schools Arizona, Education Law Center, and the Southern Poverty Law Center in Support of Defendants/Appellees; Certificate of Service; Certificate of Compliance (Amici Curiae Save Our Schools Arizona, et al.)
33. 22-Mar-2021 FILED: (Copy of) Joint Notice Regarding Blanket Consent for Amicus Curiae Briefs (Amici Curiae Save Our Schools Arizona, et al.)
34. 22-Mar-2021 FILED: Brief of the Arizona Tax Research Association and Arizona Chamber of Commerce and Industry as Amicus Curiae in Support of Appellants; Certificate of Service; Certificate of Compliance (Amici Curiae Arizona Tax Research Association, et al.)
35. 22-Mar-2021 FILED: Amici Brief in Support of Plaintiffs-Appellants; Certificate of Service; Certificate of Compliance (Amici Curiae Alliance Defending Freedom, et al.)
36. 22-Mar-2021 FILED: (Copy of) Joint Notice Regarding Blanket Consent for Amicus Curiae Briefs (Amici Curiae Alliance Defending Freedom, et al.)
37. 22-Mar-2021 FILED: Brief of Amicus Curiae Tax Professor Erin Scharff; Certificate of Service; Certificate of Compliance (Amicus Curiae Scharff)
38. 22-Mar-2021 FILED: (Copy of) CV-21-0058-T/AP Docket (Amicus Curiae Scharff)
39. 29-Mar-2021 Justice Gould is recused and will not participate in the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Honorable Paul J. McMurdie, Judge of the Arizona Court of Appeals, Division One, Phoenix, is designated to sit on the case until it is finally determined.
40. 29-Mar-2021 FILED: Minute Entry (MCSC - 03/26/2021) (Fine, Clerk)
41. 29-Mar-2021 FILED: Appellants' Response to Amici Curiae; Certificate of Service; Certificate of Compliance (Appellants Fann, et al.)
42. 29-Mar-2021 FILED: Appellees Invest in Education (Sponsored By AEA and Stand for Children) and David Lujan's Combined Response to Amicus Briefs in Support of Appellants; Certificate of Service; Certificate of Compliance (Appellees Invest in Education, et al.)
43. 31-Mar-2021 FILED: Intervenor-Defendants/Appellees' Notice Regarding Trial Court Proceedings; Certificate of Service; Exhibit 1 (Appellees Invest in Education, et al.)
44. 8-Apr-2021 FILED: Intervenor-Defendants/Appellees' Notice of Citation to Supplemental Authority; Certificate of Service (Appellees Invest in Education, et al.)
45. 9-Apr-2021 FILED: Appellants' Notice of Filing Notice of Supplemental Authority in Superior Court (with Exhibit A); Certificate of Service (Appellants Fann, et al.)
46. 13-Apr-2021 FILED: Appellants' Response to Filing of Supplemental Authority; Certificate of Service (Appellants Fann, et al.)
47. 16-Apr-2021 FILED: Request to Photograph Oral Arguments (Robert Christie, Assoc. Press)
48. 20-Apr-2021 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Dominic Emil Draye, Brian M Bergin, D Andrew Gaona)