

S274191

General Docket

United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 21-15963

Docketed: 06/03/2021

Nature of Suit: 4360 Other Personal Injury

Termed: 04/21/2022

Corby Kuciemba, et al v. Victory Woodworks, Inc.

Appeal From: U.S. District Court for Northern California, San Francisco

Fee Status: Paid

Case Type Information:

- 1) civil
- 2) private
- 3) null

Originating Court Information:

District: 0971-3 : 3:20-cv-09355-MMC

Court Reporter: Katherine Sullivan, Court Reporter

Trial Judge: Maxine M. Chesney, Senior District Judge

Date Filed: 12/28/2020

Date Order/Judgment:

05/10/2021

Date Order/Judgment EOD:

05/10/2021

Date NOA Filed:

06/03/2021

Date Rec'd COA:

06/03/2021

Prior Cases:

None

Current Cases:

None

CORBY KUCIEMBA
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v.

VICTORY WOODWORKS, INC., a Nevada Corporation
Defendant – Appellee,

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CORBY KUCIEMBA; ROBERT KUCIEMBA,

Plaintiffs – Appellants,

v.

VICTORY WOODWORKS, INC., a Nevada Corporation,

Defendant – Appellee.

06/03/2021	<u>1</u>	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Appellants Corby Kuciemba and Robert Kuciemba Mediation Questionnaire due on 06/10/2021. Transcript ordered by 07/06/2021. Transcript due 08/02/2021. Appellants Corby Kuciemba and Robert Kuciemba opening brief due 09/13/2021. Appellee Victory Woodworks, Inc. answering brief due 10/12/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [12133274] (JPD) [Entered: 06/03/2021 04:48 PM]
06/10/2021	<u>2</u>	Filed (ECF) Appellants Corby Kuciemba and Robert Kuciemba Mediation Questionnaire. Date of service: 06/10/2021. [12139919] [21-15963] (Zurada, Martin) [Entered: 06/10/2021 08:43 AM]
06/10/2021	3	The Mediation Questionnaire for this case was filed on 06/10/2021. To submit pertinent confidential information directly to the Circuit Mediators, please use the following link . Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[12140495]. [21-15963] (AD) [Entered: 06/10/2021 12:44 PM]
06/14/2021	<u>4</u>	MEDIATION CONFERENCE SCHEDULED – DIAL-IN Assessment Conference, 07/28/2021, 10:30 a.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [12143610] (BLS) [Entered: 06/14/2021 02:56 PM]
07/28/2021	<u>5</u>	MEDIATION ORDER FILED: This case is RELEASED from the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant settlement discussions while the appeal is pending. [12185994] (BLS) [Entered: 07/28/2021 03:54 PM]
09/13/2021	<u>6</u>	Submitted (ECF) Opening Brief for review. Submitted by Appellants Corby Kuciemba and Robert Kuciemba. Date of service: 09/13/2021. [12226536] [21-15963]--[COURT UPDATE: Attached corrected brief. 09/17/2021 by LA] (Zurada, Martin) [Entered: 09/13/2021 11:35 AM]
09/13/2021	<u>7</u>	Submitted (ECF) excerpts of record. Submitted by Appellants Corby Kuciemba and Robert Kuciemba. Date of service: 09/13/2021. [12226542] [21-15963]--[COURT UPDATE: Attached corrected excerpts. 09/17/2021 by LA] (Zurada, Martin) [Entered: 09/13/2021 11:38 AM]
09/17/2021	<u>8</u>	Filed clerk order: The opening brief [6] submitted by Corby Kuciemba and Robert Kuciemba is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The excerpts of record [Z] submitted by Corby Kuciemba and Robert Kuciemba are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12231834] (LA) [Entered: 09/17/2021 01:25 PM]
09/21/2021	9	Received 3 paper copies of excerpts of record [Z] in 1 volume(s) filed by Appellants Corby Kuciemba and Robert Kuciemba. [12235165] (KWG) [Entered: 09/21/2021 04:17 PM]
09/21/2021	10	Received 6 paper copies of Opening Brief [6] filed by Corby Kuciemba and Robert Kuciemba. [12235201] (SD) [Entered: 09/21/2021 04:31 PM]
10/03/2021	11	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee Victory Woodworks, Inc.. New requested due date is 11/10/2021. [12245796] [21-15963] (Bogdan, William) [Entered: 10/03/2021 09:08 AM]
10/04/2021	12	Streamlined request [11] by Appellee Victory Woodworks, Inc. to extend time to file the brief is approved. Streamlined requests allow for a 30 day extension of time to file the brief. Amended briefing schedule: Appellee Victory Woodworks, Inc. answering brief due 11/12/2021. The optional reply brief is due 21 days from the date of service of the answering brief. [12245858]

(JN) [Entered: 10/04/2021 07:51 AM]

- 11/12/2021 13 Submitted (ECF) Answering Brief for review. Submitted by Appellee Victory Woodworks, Inc.. Date of service: 11/12/2021. [12285497] [21-15963] (Bogdan, William) [Entered: 11/12/2021 10:44 AM]
- 11/12/2021 14 Submitted (ECF) excerpts of record. Submitted by Appellee Victory Woodworks, Inc.. Date of service: 11/12/2021. [12285503] [21-15963] (Bogdan, William) [Entered: 11/12/2021 10:48 AM]
- 11/15/2021 15 Filed clerk order: The answering brief [13] submitted by Victory Woodworks, Inc. is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The excerpts of record [14] submitted by Victory Woodworks, Inc. are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12286589] (KT) [Entered: 11/15/2021 08:42 AM]
- 11/16/2021 16 Received 3 paper copies of excerpts of record [14] in 1 volume(s) filed by Appellee Victory Woodworks, Inc.. [12289203] (KWG) [Entered: 11/16/2021 02:53 PM]
- 11/16/2021 17 Received 6 paper copies of Answering Brief [13] filed by Victory Woodworks, Inc.. [12289510] (SD) [Entered: 11/16/2021 04:33 PM]
- 12/02/2021 18 This case is being considered for an upcoming oral argument calendar in San Francisco
- Please review the San Francisco sitting dates for March 2022 and the 2 subsequent sitting months in that location at http://www.ca9.uscourts.gov/court_sessions. If you have an unavoidable conflict on any of the dates, please file **Form 32 within 3 business days of this notice** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's instructions carefully.
- When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.
- If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter **within 3 business days of this notice**, using CM/ECF (**Type of Document:** Correspondence to Court; **Subject:** request for mediation).[12304117]. [21-15963] (KS) [Entered: 12/02/2021 02:11 PM]
- 12/03/2021 19 Filed (ECF) Attorney Mr. William A. Bogdan, Esquire for Appellee Victory Woodworks, Inc. response to notice for case being considered for oral argument. Date of service: 12/03/2021. [12304639] [21-15963] (Bogdan, William) [Entered: 12/03/2021 07:38 AM]
- 12/03/2021 20 Submitted (ECF) Reply Brief for review. Submitted by Appellants Corby Kuciemba and Robert Kuciemba. Date of service: 12/03/2021. [12304651] [21-15963] (Zurada, Martin) [Entered: 12/03/2021 08:23 AM]
- 12/03/2021 21 Filed (ECF) Attorney Mr. Martin Zurada for Appellants Corby Kuciemba and Robert Kuciemba response to notice for case being considered for oral argument. Date of service: 12/03/2021. [12304963] [21-15963] (Zurada, Martin) [Entered: 12/03/2021 11:51 AM]
- 12/03/2021 22 Filed clerk order: The reply brief [20] submitted by Corby Kuciemba and Robert Kuciemba is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [12304993] (KT) [Entered: 12/03/2021 12:11 PM]

- 12/07/2021 23 Received 6 paper copies of Reply Brief [20] filed by Corby Kuciemba and Robert Kuciemba. [12308575] (SD) [Entered: 12/07/2021 01:10 PM]
- 12/21/2021 24 Filed (ECF) Appellants Corby Kuciemba and Robert Kuciemba citation of supplemental authorities. Date of service: 12/21/2021. [12322040] [21-15963] (Zurada, Martin) [Entered: 12/21/2021 02:11 PM]
- 12/23/2021 25 Filed (ECF) Appellee Victory Woodworks, Inc. citation of supplemental authorities. Date of service: 12/23/2021. [12324080] [21-15963] (Bogdan, William) [Entered: 12/23/2021 12:28 PM]
- 12/26/2021 26 Notice of Oral Argument on Thursday, March 10, 2022 – 09:00 A.M. – Courtroom 3 – Scheduled Location: San Francisco CA.
The hearing time is the local time zone at the scheduled hearing location.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. *See* Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, you may have the option to appear in person at the Courthouse or remotely by video. Check [here](#) for updates on the status of reopening as the hearing date approaches. At this time, even when in person hearings resume, an election to appear remotely by video will not require a motion, **and any attorney wishing to appear in person must provide proof of vaccination**. The court expects and supports the fact that some attorneys and some judges will continue to appear remotely. If the panel determines that it will hold oral argument in your case, the Clerk's Office will contact you directly at least two weeks before the set argument date to review any requirements for in person appearance or to make any necessary arrangements for remote appearance.

Please note however that if you do elect to appear remotely, the court **strongly prefers** video over telephone appearance. Therefore, if you wish to appear remotely by telephone you will need to file a motion requesting permission to do so.

Be sure to review the [GUIDELINES](#) for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the **[ACKNOWLEDGMENT OF HEARING NOTICE](#)** filing type in CM/ECF no later than 28 days before Thursday, March 10, 2022. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[12324734]. [21-15963] (KS) [Entered: 12/26/2021 06:12 AM]

- 02/01/2022 27 Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. Martin Zurada for Appellants Corby Kuciemba and Robert Kuciemba. Hearing in San Francisco on 03/10/2022 at 09:00 A.M. (Courtroom: 3). Filer sharing argument time: No. Appearance in person or by video: I wish to appear by video. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 02/01/2022. [12356867] [21-15963] (Zurada, Martin) [Entered: 02/01/2022 08:18 AM]
- 02/08/2022 28 Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. William A. Bogdan, Esquire for Appellee Victory Woodworks, Inc.. Hearing in San Francisco on 03/10/2022 at 09:00 A.M. (Courtroom: Courtroom 3). Filer sharing argument time: No. (Argument minutes: 15) Appearance in person or by video: I wish to appear by video. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 02/08/2022. [12364311] [21-15963] (Bogdan, William) [Entered: 02/08/2022 02:25 PM]

- 03/10/2022 29 ARGUED AND SUBMITTED TO J. CLIFFORD WALLACE, SIDNEY R. THOMAS and M. MARGARET MCKEOWN. [12391573] (BJK) [Entered: 03/10/2022 11:55 AM]
- 03/10/2022 30 Filed Audio recording of oral argument.
Note: Video recordings of public argument calendars are available on the Court's website, at <http://www.ca9.uscourts.gov/media/>
[12392739] (BJK) [Entered: 03/11/2022 01:48 PM]
- 04/15/2022 31 Filed (ECF) Appellants Corby Kuciemba and Robert Kuciemba citation of supplemental authorities. Date of service: 04/15/2022. [12422797] [21-15963] (Zurada, Martin) [Entered: 04/15/2022 01:41 PM]
- 04/19/2022 32 Filed (ECF) Appellee Victory Woodworks, Inc. citation of supplemental authorities. Date of service: 04/19/2022. [12425313] [21-15963] (Bogdan, William) [Entered: 04/19/2022 11:10 AM]
- 04/21/2022 33 Order filed for PUBLICATION (J. CLIFFORD WALLACE, SIDNEY R. THOMAS and M. MARGARET MCKEOWN) Pursuant to Rule 8.548(b)(2) of the California Rules of Court, we respectfully request that the Supreme Court of California decide the certified questions presented below (SEE ORDER FOR FULL TEXT). This case is withdrawn from submission. Further proceedings in this case before our court are stayed pending final action by the California Supreme Court. The Clerk is directed to administratively close this docket, pending further order. The parties shall notify this court within fourteen days of the California Supreme Court's acceptance or rejection of certification and, if certification is accepted, within fourteen days of the California Supreme Court's issuance of a decision. SO ORDERED. [12427307] (AKM) [Entered: 04/21/2022 08:52 AM]