11439-2

FILED

SEP 23 1974

CLIFFORD H. WARD
CLERK SUPREME COURT
BY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

FARMERS INVESTMENT COMPANY, a corporation, Plaintiff, vs. PIMA MINING COMPANY, a corporation; ANDREW L. BETTWY, as State Land Commissioner and THE STATE LAND DEPARTMENT, a department of the State of Arizona, Defendants.	No. 116542

CLERK'S CERTIFICATE OF RECORD ON APPEAL.

STATE OF ARIZONA)
) ss:
COUNTY OF PIMA)

I, FRANCES G. GIBBONS, Clerk of the Superior Court of the State of Arizona, in and for the County of Pima, do hereby certify that the following papers and portions of record constitute all of the papers and portions of record designated in the above entitled action to be forwarded to the COURT OF APPEALS, DIVISION NO. TWO, of the State of Arizona, viz:

1. Count Four of the Amended Complaint: (Assignment the Amended Complaint by Addition of that Count-not file stamped or dated).

2. The Answers Thereto of the Defendants, PIMA MINING COMPANY, STATE LAND DEPARTMENT, and ANDREW L. BETTWY, as State Land Commissioner:

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2. (Continued):

(a. Answer of Pima Mining Company To Count Four Of Amended Complaint, filed April 10, 1972.)

(b. Acceptance Of Service And Consent To Amendment Of Pleadings. (No Answer filed).

3. Plaintiff, FARMERS INVESTMENT COMPANY'S Motion for Summary Judgment with respect to Count Four:
(Motion For Partial Summary Judgment As To Commercial Lease No. 906, filed June 18, 1973.).

4. Motion for Summary Judgment filed by PIMA MINING COMPANY with respect to Count Four:
(Notice Of Motion with Defendant's Motion For Partial Summary Judgment As Commercial Lease No. 906, filed August [illegible], 1973.)

5. All Responses and [illegible] pleadings filed by FARMERS INVESTMENT COMPANY, PIMA MINING, STATE LAND DEPARTMENT, and [illegible] L. [illegible], as State Land Commissioner, in relationship to each said Motion for Summary Judgment as filed by PIMA MINING COMPANY and FARMERS INVESTMENT COMPANY.
(See Item 10 under Appellee's Designation).

6. All Minute Entry Orders entered in the above cause in relationship to Count Four and the Motions for Summary Judgment described:
(a. Minute Entry Order dated [illegible] 10, 1973:

(b. Minute Entry Order dated November 15, 1973:

(c. Minute Entry Order dated [illegible] 29, 1973).

7. The Judgment entered herein on [illegible] 1973 which resulted in the Motions for Summary Judgment and Count Four of Plaintiff's Amended Complaint:
(Judgment As To Count Four Of Amended Complaint, filed [illegible], 1973).

8. Notice of Appeal [illegible] filed herein:
(Notice of Appeal, filed [illegible] 1974).

9. FARMERS INVESTMENT COMPANY'S Bond for Cost of Appeal filed herein:

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9. (Continued):
(Bond For Cost On Appeal, filed January 30, 1974).

10. This Designation of Record as filed herein:
(Designation Of Contents Of Record on Appeal, filed January 30, 1974).

"I further certify that the following papers are all of the papers and portions of record designated by the Appellee:"

1. FARMERS INVESTMENT COMPANY'S amended complaint, dated September 29,1971:
(Amended Complaint. filed September 30, 1971).

2. Plaintiff FARMERS INVESTMENT COMPANY'S Motion to Compel Discovery, dated June 12, 1972:
(Motion To Compel Discovery Against Defendants Duval Corporation And Duval Sierrita Corporation, filed June 13, 1972).

ITEMS 3 THRU 8 DELETED-- SEE AMENDMENT TO APPELLEE'S DESIGNATION OF ADDITIONAL CONTENTS OF RECORD ON APPEAL. UNDER ITEM NO. [illegible] OF [illegible].

3. [illegible]

4. [illegible]

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THESE ITEMS DELETED PER AMENDMENT TO APPELLEE'S DESIGNATION- SEE ITEM NO. 5 UNDER 75-G.

6. Defendant DUVAL'S Memoranda In Response And Opposition to Plaintiff FARMERS INVESTMENT COMPANY'S Motion To Compel, dated August 27, 1972:

(Per Mr. Lacy, there is no such Pleading and this was designated by mistake).

7. Defendant PIMA MINING COMPANY'S Memorandum in Opposition to Plaintiff's Motion to Compel, dated October 17, 1972:
(Pima Mining Company's Opposition To Plaintiff's Motion To Compel Discovery, filed October 19, 1972.

8. Minute Entry of November 3, 1972, setting aside Motion to Compel against Defendant and granting Motion to Compel against Defendant PIMA MINING COMPANY:
(Minute Entry dated November 3, 1972).

9. Reporter's Transcript of record, if any, of hearing on November 3, 1972:
"Reporter's Transcript Not filed as of this Date."

10. All Responses and other pleadings filed by FARMERS INVESTMENT COMPANY, PIMA MINING COMPANY, STATE LAND DEPARTMENT, and ROBERT L. LOCKWY, as State Land Commissioner, in relationship to Motions for Summary Judgment as filed by the PIMA MINING [illegible] and FARMERS INVESTMENT COMPANY, including:

a. Defendant DUVAL'S Motion For Leave to File Written Memorandum and to Have Oral Argument, dated August 31, 1972:
(Duval's Motion For Leave To File Written Memorandum And Request Oral Argument and Memorandum, filed September 4, 1972).

b. Plaintiff FARMERS INVESTMENT COMPANY'S Reply [illegible] Defendant PIMA MINING COMPANY'S Motion for [illegible] Summary Judgment, dated September 8, [illegible]:
(Plaintiff's Reply to Defendant PIMA'S Supplemental Memorandum [illegible], filed September [illegible], 1972).

c. [illegible] Response to [illegible] Motion for Leave to File [illegible] Memorandum, dated September [illegible], 1972:

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10. (Continued):
(FICO'S RESPONSE TO DUVAL'S MOTION FOR LEAVE TO FILE MEMORANDUM AND ARGUE, filed September 6, 1973.)

d. Defendant PIMA MINING COMPANY'S Reply to Plaintiff FARMERS INVESTMENT COMPANY'S Response to Defendant PIMA MINING COMPANY'S Motion for Summary Judgment dated September 6, 1973:
(PIMA'S REPLY TO FICO'S RESPONSE TO PIMA'S SUMMARY JUDGMENT MOTION, filed September 10, 1973.)

e. Motion for Leave to File Written Memorandum and Present Oral Argument by AMERICAN SMELTING AND REFINING COMPANY:
(MOTION OF AMERICAN SMELTING AND REFINING COMPANY TO FILE WRITTEN MEMORANDUM AND PRESENT ORAL ARGUMENT, filed September 10, 1973.)

f. Plaintiff FARMERS INVESTMENT COMPANY'S Response to Motion of AMERICAN SMELTING AND REFINING COMPANY, dated September 7, 1973:
(RESPONSE TO MOTION OF AMERICAN SMELTING AND REFINING COMPANY FOR LEAVE TO FILE WRITTEN MEMORANDUM AND PRESENT ORAL ARGUMENT, filed September 10, 1973.)

g. Response of Defendant STATE LAND DEPARTMENT to Motion for Summary Judgment, dated September 7, 1973:
(RESPONSE OF DEFENDANT STATE LAND DEPARTMENT TO MOTION FOR SUMMARY JUDGMENT ON COMMERCIAL LEASE NO. 906, filed September 10, 1973.)

h. Minute Entry of September 10, 1973, in Relation to Hearing on Motion for Summary Judgment:
(See Item No. 6 (a) in Appellant's Designation).

i. Defendant PIMA MINING COMPANY'S Supplemental Memorandum on Motion for Summary Judgment:
(SUPPLEMENTAL MEMORANDUM OF PIMA MINING COMPANY, filed September 13, 1973.)

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10. (Continued):

j. Plaintiff FARMERS INVESTMENT COMPANY'S Supplemental Memorandum on Motion for Summary Judgment, dated September 25, 1973:
(FICO'S SUPPLEMENTAL MEMORANDUM RE COMMERCIAL LEASE NO. 906, filed September 26, 1973.)

k. Memorandum of Defendant DUVAL on the Cross Motions forSummary Judgment, dated September 25, 1973:
(MEMORANDUM OF DUVAL DEFENDANTS ON THE CROSS MOTIONS FOR SUMMARY JUDGMENT ON STATE COMMERCIAL LEASE NO. 906 OF FICO AND PIMA, filed September 25,1973.)

never received any RT

11. Reporter's Transcript, if any, of Hearing on Motion for Summary Judgment, September 10, 1973:
(No Reporter present).

"I further certify that by the authority vested in me under Civil Rule 75-G, I have included in the Clerk's Certificate, in addition to the items mentioned in the Designations, the following:

1. Copy of letter re. Judgment, filed December 10, 1973.

2. Copy of letter re. Notice of Appeal, filed January 30, 1974.

3. Appellee's Designation Of Additional Contents Of Record on Appeal, filed February 6, 1974.

4. Minute Entry dated March 7, 1974.

5. Amendment To Appellee's Designation of Additional Contents Of Record On Appeal, filed March 13, 1974.

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WITNESS my hand and the Seal of this Court affixed this 30th day of April, 1974.

Frances C. Gibbons
FRANCES C. GIBBONS
Clerk of the Superior Court
Pima County, Arizona.

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STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

I **Antonio Bucci** hereby certify:
Name

That I am **Reference Librarian, Law & Research Library Division** of the Arizona State
Title/Division

Library, Archives and Public Records of the State of Arizona;

That there is on file in said Agency the following:

Arizona Supreme Court, Civil Cases on microfilm, Film #36.1.764, Case #11439-2, Supreme Court Instruments, Part One, Clerk's Certificate of Record on Appeal, pages 131-137 (7 pages)

The reproduction(s) to which this affidavit is attached is/are a true and correct copy of the document(s) on file.

Antonio Bucci
Signature

Subscribed and sworn to before me this 12/12/2005
Date

Etta Louise Muir
Signature, Notary Public

My commission expires 04/13/2009
Date

Notary Public State of Arizona
Maricopa County
Etta Louise Muir
My Commission Expires
04/13/2009