

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2019-090996

12/21/2023

HONORABLE BRIAN D. KAISER

CLERK OF THE COURT

K. Tiero

Deputy

TAX LIEN SERVICES L L C

HEATHER MUIR HENDRIX

v.

LEE M BEITMAN, et al.

LEE M BEITMAN
18209 N 2ND ST
PHOENIX AZ 85022

ANNIE FRANCE AUGUSTINE
NO ADDRESS ON RECORD
FRANCES BEITMAN
18209 N 2ND ST
PHOENIX AZ 85022
ROBERT BIRKS
NO ADDRESS ON RECORD
LYNNE A FISHER
NO ADDRESS ON RECORD
SEVEN PALMS HOMEOWNERS
ASSOCIATION
NO ADDRESS ON RECORD
CHARLESTON PLACE HOMEOWNERS
ASSOCIATION INC
NO ADDRESS ON RECORD
TURTLE ROCK I I I HOMEOWNERS
ASSOCIATION
NO ADDRESS ON RECORD
CIRCULATION TECHNICIANS INC
NO ADDRESS ON RECORD
DUSTIN CHAD MCBRIDE
SUNSET SHADOWS NO 2
HOMEOWNERS ASSOCIATION
NO ADDRESS ON RECORD

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BORIS PETROVIC
NO ADDRESS ON RECORD
COMM. KAISER

MINUTE ENTRY

Before the Court is Defendant's Motion to Rescind or Finalize the Default Judgment Under Rule 54(c), filed November 29, 2023, and Plaintiff's Response to Defendant's Motion to Finalize the Default Judgment Under Rule 54(c), filed December 18, 2023.

Defendant filed his appeal in this case on October 2, 2023, which terminates this Court's jurisdiction over the case. On November 21, 2023, the Court of Appeals revested this Court with jurisdiction for the sole purpose of considering whether the dismissal order of November 8, 2019 should have included the Rule 54(c) finality language. The Court of Appeals orders that Defendant, as the Appellant, take the initiative of requesting such an order from this Court. Instead, Defendant's Motion requests that this Court rescind the November 8, 2019 order. It is unclear to this Court, given the procedural posture of the case, upon what legal basis Defendant moves for rescission of that order. In the absence of some stated authority to consider, the Court's view is that it lacks jurisdiction to "rescind" a previously issued order of this Court while the case remains on appeal.

With respect to Defendant's request for a final order, which in the Court's view is the only thing the Court of Appeals has granted this Court jurisdiction to consider, the Court agrees that the November 8, 2019 order is missing any reference to Rule 54(c). Although the order was issued several years ago, a review of the docket for the case, the language of the order, and the procedural posture of the case at the time the order was issued, lead this Court to conclude that the November 8, 2019 order was intended to be a final order of the Court.

Unfortunately, this is not an altogether uncommon oversight. Though unstated in the order of the Court of Appeals, the convention in this Court's experience is that the party requesting the amended order submits a proposed form of order to the Court. It is normally submitted with the underlying motion so that the opposing party may have the opportunity to review it and offer any objection. That was not done here.

However, this Court's jurisdiction ends today. The Court has concerns about whether it will receive a proper form of order from Defendant given that Defendant's filings tend to be

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handwritten on notebook paper. Because the entry of a proper final order is little more than a ministerial task, the Court sees no prejudice to either party in Court simply drafting the order. Moreover, neither party objects to the entry of a final order.

For the foregoing reasons,

IT IS ORDERED Granting in part and Denying in part Defendant's Motion to Rescind or Finalize the Default Judgment Under Rule 54(c).

IT IS FURTHER ORDERED Amending the order of this Court dated November 8, 2019 to include the following:

"The Court finds there is no just reason for delay and that there are no further matters pending and this judgment is entered pursuant to Rule 54(c)."

A form of Order is filed separately.

/s/ The Honorable Brian D. Kaiser

THE HONORABLE BRIAN D. KAISER
JUDICIAL OFFICER OF THE SUPERIOR