

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2024-000143-001 DT

06/30/2025

HONORABLE JULIE A. LAFAVE

CLERK OF THE COURT
J. Eaton
Deputy

PALM VALLEY COMMUNITY ASSOCIATION TREVOR L ASH

v.

CYNTHIA A MCALISTER (001)
MARK A MCALISTER (001)

WILLIAM R RICHARDSON

COMM. LAFAVE
REMAND DESK-LCA-CCC
WHITE TANK JUSTICE COURT

MINUTE ENTRY

White Tank Justice Court Case No. CC2015095536RC

On **May 28, 2025**, this Court issued its final ruling on the merits of the case following the mandate from the Court of Appeals. Pending before this Court from that time are the following motions:

- McAlister’s Application for Award of Attorneys’ Fees and Costs and Declaration in support of Application for Award of Attorneys’ Fees and Costs (collectively “Fee Application”) filed **June 10, 2025**
- Palm Valley Community Association’s (“Palm Valley”) Motion for Rehearing (Oral Argument Requested) filed **June 13, 2025**¹

¹ This represents McAlister’s second request for Oral Argument related to a Motion for Reconsideration/Rehearing. *See also* Motion for Rehearing, filed May 24, 2024. The Motion’s request for Oral Argument is not supported by law. *See* SCRAP Rule 14(a)(“On motion for rehearing there shall be no oral argument unless requested by the court”).

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- Palm Valley’s Motion to Enlarge Time to File Motion for Rehearing (“Motion”) filed **June 13, 2025**²
- McAlister’s Response to the Motion to Extend Time to file Motion for Reconsideration (“Response”) filed **June 18, 2025**
- Palm Valley’s Reply in Support of Motion to Enlarge Time to File Motion for Rehearing filed **June 20, 2025**³
- Palm Valley’s Objection to Application for Attorney Fees file **June 23, 2025**

A cursory review of the Superior Court Rules of Appellate Procedure-Civil (“SCRAP”) and Maricopa County Local Rules, provide the grounds for ruling on each of these pending motions.

Palm Valley argues the Motion should be granted due to excusable neglect because “counsel’s filing provide a general email box for delivery of documents, and counsel has no record of receipt of the ruling at that email address or any other, or via mail or any other means. The Plaintiff had no other means of being made aware of the Court’s ruling or what the ruling said.” Motion at 2: 9-14. The Clerk of Court (“Clerk”) does not obtain contact information from the party’s filings. Palm Valley’s record attorney was listed as Trevor Ash at the Oswalt Law Firm. The Clerk provided the following additional information regarding contact information in its possession:

The contact information was created in April 2020; once we verify the status of an attorney, we then input that information into [Superior Court’s contact information] and until we receive notification that the attorney has changed firms (either a Notice of Appearance, or an updated attorney address change form), that information remains the same.

If we receive a Returned Mail or if an email was returned undeliverable, then staff will review the docket for the latest pleading or other documents to verify where the attorney works. We would then send an address update form to the attorney to verify, and then maintain that form as a source document.

It appears Mr. Ash had been employed at another firm but at the time of this case, was filing pleadings from the law firm of Maxwell & Morgan. While that contact was, as Palm Valley argues, contained in the pleadings, that was not sufficient under the rules:

² This represents the second request for this Court to provide time beyond that prescribed under the rules for Palm Valley’s briefing. See Motion to Enlarge Time to File Fee Application, July 24, 2024.

³ SCRAP Rule 14 does not provide for Replies.

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Each attorney shall promptly advise the Clerk of the Superior Court and the Court Administrator, separately and in writing, of that attorney's office address, telephone number, e-mail address, or law firm affiliation if it is different from that listed in the current Directory of the State Bar of Arizona or is omitted from the directory. The Clerk of the Superior Court and the Court Administrator shall promptly note that information on the records of their offices, together with the date of receipt of that information, and they shall not otherwise be responsible for the office address, telephone number, email address, or law firm affiliation of any attorney.

Superior Court Local Rules-Maricopa Country Rule 2.10(a).

Rulings were sent to the email listed at the State Bar address. Palm Valley appears to have received communication from the Court while Mr. Ash was working on the case, despite the incorrect email provided. Palm Valley has not alleged it failed to receive rulings from the Court until more recently. The Court will not opine as to whether they were forwarded on to him at a new employment or how it was he continued to receive them. Mr. Ash filed pleadings in this case until May 24, 2024.

While the firm listed on the pleadings was Maxwell & Morgan, P.C., Mr. Ash's contact information was not changed on the State Bar website nor was a Notice of Appearance or Change of Firm filed with the Superior Court.⁴ On July 11, 2024, Garren Laymon, who appears to also be an attorney at Maxwell & Morgan, P.C. began filing pleadings on behalf of Palm Valley. No Notice of Appearance was filed for Mr. Laymon. There is no change of address or notice of change of firm in the docket or in the record.

The Maricopa County Clerk of Court does not "keep track" of the movement of lawyers. It does not open the docket for all the Minute Entry Orders sent to same nor confirm current contact information as provided in pleadings. It follows the rules. Although it appears it does, as a professional courtesy, try to find contact information if it becomes aware, through a return mailing, that a ruling did not reach a party. While that is an appropriate and appreciated "extra step" for the Clerk to engage in on behalf of the legal community and the litigants of Maricopa County, as a matter of law, the obligation to keep the Court informed of contact information falls to the attorney.

Even if the Clerk of Court had failed to convey the ruling on May 28, 2025, which it clearly did not, that alone is not sufficient reason to obtain relief. *See J.C. Penny v. Lane*, 197 Ariz. 113, 117 (1999). Palm Valley would also had to have shown "other compelling circumstances" for the neglect. *Id.* Palm Valley has cited no reason it was not monitoring the

⁴ The Court confirmed that as of June 26, 2025, Mr. Ash's State Bar contact information remains at the Oswalt Law Firm.

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docket for a ruling on a case pending in Superior Court, updated proper contact information with the Clerk, or filed a Notice of Appearance when new counsel began working on the matter. Further, as referenced in the Response, McAlister contacted the Court (and copied Palm Valley on the email) due to an administrative error, and both parties were informed the Ruling would be issued shortly. Palm Valley was therefore put on notice that a Ruling was forthcoming. As a matter of law, no excusable neglect has been alleged.

Palm Valley has not established sufficient grounds to grant the Motion. Mr. Ash had the obligation to file new contact information with the State Bar and the Superior Court, and is encouraged to do so at his earliest convenience. Mr. Laymon had the same obligation when he began work on this matter. Fulfillment of either of those obligations would have corrected this error before it occurred. Palm Valley has not shown excusable neglect in failing to file the Motion in a timely manner.

As to the issue of Attorneys' Fees, Palm Valley's Objection is untimely. Palm Valley makes clear it received McAlister's Fee Application on June 10, 2025. It avows that was the catalyst to contact the Court and determine a substantive ruling had already been issued. Despite receipt of the Fee Application on June 10, 2025, Palm Valley did not file its Objection to same until June 23, 2025. Objections to requests for attorneys' fees must be filed within **five days** of service of the request. *SCRAP Rule 13(a)*. Palm Valley's Objection was filed thirteen days after the Fee Application. It is therefore untimely.

McAlister seeks leave to supplement his Fee Application to include fees generated since the filing of his initial request. Within ten days from this Order, McAlister must file a request for any supplemental Fees and a Proposed Form of Judgment to include all fees requested. The request may include only fees generated since his initial filing. Palm Valley may file any objection, limited only to Fees incurred since June 10, 2025, within five days of service of any supplement.

Accordingly,

IT IS ORDERED denying the request for Oral Argument.

IT IS FURTHER ORDERED denying the Motion for Rehearing.

IT IS FURTHER ORDERED staying the request for Attorneys' Fees until the time has expired for any further briefing.

IT IS FURTHER ORDERED that for this Minute Entry only, Court staff is directed to provide a copy of same directly to both parties via the email addresses they have provided to the

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division for communications. In future, rulings will be conveyed only through the Clerk of Court as prescribed under the rule. The parties are encouraged to ensure those will be received by filing the appropriate changes of address and/or Notices of appearance for their Superior Court matters.

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.