

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2024-000143-001 DT

08/06/2024

HONORABLE JULIE A. LAFAVE

CLERK OF THE COURT
T. DeRaddo
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

ORDER DENYING MOTION

White Tank Justice Court Case No: CC2015095536RC

On June 21, 2024, this Court granted the Motion for reconsideration and affirmed the ruling of the trial court. *See* Motion to Reconsider Granted-Ruling Judgment Affirmed (“Order”). Because the Order altered the prevailing party in the matter, Appellee was given ten (10) days to file any request for attorneys’ fees and costs pursuant to Superior Court Rules of Appellate Procedure-Civil (“SCRAP) Rule 13.

The Order, and all others issued by the Lower Court Appeals, contained the following language:

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.

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On July 11, 2024, Appellee filed a Notice of Proposed Form of Judgment. The Notice is signed on June 24, 2024, but the mailing certificate indicates it was provided to Appellant on July 20, 2024. The accompanying Verified Statement of Costs and Notice of Taxation, Declaration in support of Attorneys' Fees and Application for Attorneys' Fees (hereinafter collectively in the singular as "Fee Application") were also filed July 11, 2024, in Superior Court but are signed June 28, 2024, and provided to Appellant on July 1, 2024. No conformed copies of the above referenced documents were provided to this Court as directed.

On July 24, 2024, Appellee filed its Motion to Enlarge Time to File Fee Application ("Motion"). The Motion indicates that Appellee directed its third-party delivery courier to file the Fee Application on July 2, 2024, but for unknown reasons, that did not occur until July 11, 2024. The Motion argues, under Arizona Rules of Civil Procedure Rule 6(b)(1)(B), that this error was excusable neglect and that the time for filing should be expanded. *See* Motion at 2:17. Conversely, Appellee then argues Appellant should be precluded from responding due to a lack of timeliness in filing. *Id.* at 2:24-25. On July 30, 2024, Appellant filed his Response to Plaintiff's Motion to Enlarge Time to File Fee Application. On August 2, 2024, Appellee filed its Reply in Support of Motion to Enlarge Time to File Fee Application. The Reply is signed July 30, 2024, and indicates delivery to Appellant on August 1, 2024.

Both the Response and the Reply make further allegations against the characters of counsel. They do not, however, provide this Court any support for an argument related to excusable neglect. Specifically, Appellee was directed to provide conformed copies of filings to this Court. Nothing in its filing suggests that part of the Court's Order was complied with. Had Appellee done so, it may have noticed earlier that the courier did not deliver a copy to chambers, or a receipt for billing to do same, and thus likely had not filed the Fee Application. Appellee also offers no explanation as to why it did not check the status of the Fee Application until July 22, 2024, well after any time to respond had expired. Appellee has not provided sufficient legal argument of excusable neglect given his failure to follow other directives of the Court which might have helped him determine the error more quickly. The Court must rely only on the filing dates in the official docket; particularly in cases where the dates on various filings are internally different and there is no reference to copies provided to this Court.

Accordingly,

IT IS ORDERED denying the Motion to Enlarge Time.

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IT IS FURTHER ORDERED remanding the matter to the White Tank Justice Court.

IT IS FURTHER ORDERED signing this Minute Entry as a formal Order of the Court.



THE HON. JULIE A. LAFAIVE
Judicial Officer of the Superior Court

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