

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TJ 2014-001810

04/24/2017

COMMISSIONER MICHAEL L. BARTH

CLERK OF THE COURT  
A. Aycock  
Deputy

LAKESHORE AT ANDERSEN SPRINGS  
HOMEOWNERS ASSOCIATION INC

MARK W WALDRON

v.

STEFAN J MARTINEZ, et al.

BANK OF AMERICA N A  
800 SAMOSET DR ATTN: CUSTOMER  
SERVICE  
NEWARK DE 19713  
KENNETH L MANN

MINUTE ENTRY

As a result of receiving Motion of Kenneth L. Mann to Withdraw Attorney, filed April 20, 2017, on April 24, 2017 and review of the court record in response thereto on that same date this Court became aware that pleadings had been filed by the parties (Supplement to Motion to Set Aside Judgment, filed December 1, 2016;<sup>1</sup> Response thereto, filed December 14, 2016;<sup>2</sup> and Reply, filed December 29, 2016) notice of which Commissioner Barth's Division, according to iCIS (the internal court record), never received.

Having considered Defendant's Motion to Set Aside Default Judgment, the Supplement thereto, Plaintiff's Response, and Defendant's Reply,

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<sup>1</sup> No Certificate of Service showing delivery or mailing to Commissioner Barth's Division.

<sup>2</sup> Certificate of Service does not reflect manner of service on Commissioner Barth's Division.

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IT IS ORDERED denying said motion without prejudice to re-file with the justice court entering the default judgment for the reason it is without jurisdiction to set aside the judgment entered in the justice court. This Court is bound by precedent and Marquez v. Perez, 14 Ariz. App. 451, 484 P. 2d 220 (1971) is still controlling precedent. The conflict between the affidavit of service and the anticipated testimony of Defendant and supporting documents creates an issue of fact requiring an evidentiary hearing. Accordingly, because the judgment does not, on its face, show that it is void for want of jurisdiction, jurisdiction for determining whether the judgment is void lies with the justice court that rendered the judgment.