

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2012-000034-001 DT

04/25/2012

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
K. Waldner
Deputy

SUNRISE MEADOWS ESTATES
COMMUNITY ASSOCIATION

CHANDLER W TRAVIS

v.

ERLINDA B ISIP (001)

MELANIE C MCKEDDIE

REMAND DESK-LCA-CCC
SAN MARCOS JUSTICE COURT

MINUTE ENTRY

Lower Court Case No. CC2010-518257

The attorney for Defendant-Appellee Erlinda B. Isip (Isip) filed with the San Marcos Justice Court a Motion To Dismiss Appeal noting Plaintiff-Appellant Sunrise Meadows Estates Community Association (SMECA) is attempting to appeal the November 7, 2011, Order denying SMECA's Motion for New Trial, and contending SMECA's notice of appeal filed November 23, 2011, was untimely. The San Marcos Justice Court has sent to this Court a copy of that Motion, and it has a file stamp showing it was filed in that court December 14, 2011.

SMECA's attorney filed with the San Marcos Justice Court a Response. The San Marcos Justice Court has sent to this Court a copy of that Response, and it has a file stamp showing it was filed in that court December 21, 2011. That Response notes the time to take an appeal is "within 14 calendar days after the entry of the order, ruling, or judgment appealed from" Rule 4(a), Superior Court Rules of Appellate Procedure—Civil (SCRAP-Civ.). That Response further notes "Entry of judgment" means "a judgment which has been signed by the judge and filed with the court." Rule 1(f), SCRAP-Civ. That Response then notes "Entry of judgment" is the date the judgment is file stamped by the Clerk of the Court. That Response then contends the Clerk of the San Marcos Justice Court entered the denial of the Motion for New Trial on November 10, 2011, and has attached a document from the San Marcos Justice Court entitled Ruling on Motion, which was signed by the Justice of the Peace on November 7, 2011, and certified by the Clerk as being mailed to the attorneys for the parties on November 10, 2011. The problem with that document is the copy received by this Court does not have a file stamp by the Clerk of the Court showing what date it was filed (if at all). It may be the copy of the document in possession of SMECA's attorney has a file stamp, but the copy of the document provided to this Court does not.

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Isip's attorney then filed with the San Marcos Justice Court a Motion To Allow Limited Reply to Motion To Dismiss Appeal. The San Marcos Justice Court has sent to this Court a copy of that Motion, and it has a file stamp showing it was filed in that court January 9, 2012. Attached to Motion is what is apparently the Limited Reply To Correct Record in Support of Motion To Dismiss Appeal. This Court has received from the San Marcos Justice Court a document entitled Ruling on Motion, which states the court received from Defendant a Motion To Allow Limited Reply, and showing the Justice of the Peace granted that motion and signed the Ruling on Motion February 17, 2012, and the Clerk mailed it to the attorneys for the parties on February 17, 2012, but again there is no file stamp showing that Ruling on Motion was filed with the Clerk of the Court. Further the Clerk of the San Marcos Justice Court never sent to this Court a file stamped copy showing Isip's attorney ever filed with the San Marcos Justice Court the Limited Reply To Correct Record in Support of Motion To Dismiss Appeal.

This Court will assume, however, Isip's attorney did file with the San Marcos Justice Court the Limited Reply To Correct Record in Support of Motion To Dismiss Appeal. Attached to that Reply is a Declaration of Justin Cooley stating a clerk named "Monica" told him it is the policy of the San Marcos Justice Court to enter orders and judgments on the same day they are signed by the judge. That policy is all well and good, but it does not necessarily show the Clerk of the Court actually followed that policy in a given case. Also attached to that Reply is a copy from the website showing the court entered a judgment in favor of Isip for costs of \$283.00 and attorneys' fees of \$5,757.50. It does not, however, state when the November 7, 2011, Order denying SMECA's Motion for New Trial was actually "filed with the court."

The appeal in this matter is from the Order of the San Marcos Justice Court denying SMECA's Motion for New Trial. This Court knows the Justice of the Peace signed that Order on November 7, 2011, but this Court still does not have any documentation showing exactly when that Order was "filed with the court."

IT IS THEREFORE ORDERED that, on or before **May 25, 2012**, Isip's attorney shall file **with this Court** one of the following:

1. A copy of the Order denying SMECA's Motion for New Trial **that has a file stamp** showing when it was filed with the Clerk of the Court.
2. A copy of docket sheet showing when the Order denying SMECA's Motion for New Trial was filed with the Clerk of the Court.
3. An affidavit from the Clerk of the Court stating when the Clerk or a deputy clerk actually filed the Order denying SMECA's Motion for New Trial.
4. Any other document showing when the Order denying SMECA's Motion for New Trial was actually filed with the Clerk of the Court.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen
THE HON. CRANE MCCLENNEN
JUDGE OF THE SUPERIOR COURT