

NOTICE: NOT FOR PUBLICATION.
UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

BERKELEY ROW, LLC, *Plaintiff/Appellant*,

v.

JACQUELINE A. REAVES, *Defendant/Appellee*.

No. 1 CA-CV 13-0044
FILED 12-26-2013

Appeal from the Superior Court in Maricopa County
No. CV2011-050888
The Honorable John Doody, Judge *Pro Tempore*

DISMISSED

COUNSEL

Law Office of James R. Vaughan, P.C., Scottsdale
By Brian K. Partridge
Counsel for Plaintiff/Appellant

Jacqueline A. Reaves, Phoenix
Defendant/Appellee, in propria persona

BERKELEY v. REAVES
Decision of the Court

DECISION ORDER

Presiding Judge Peter B. Swann delivered the decision of the Court, in which Judge Patricia K. Norris and Judge Kenton D. Jones joined.

S W A N N, Judge:

¶1 This appeal was considered during a regularly scheduled conference held on November 26, 2013. After consideration, and for the reasons that follow,

¶2 **IT IS ORDERED** dismissing this appeal for lack of jurisdiction.

¶3 Appellant Berkeley Row, LLC, obtained a default judgment against Jacqueline A. Reaves, and thereafter applied for a writ of garnishment against Reaves's bank. The bank answered and identified three accounts associated with Reaves: one account under Reaves's name (the "sole account") and two accounts under both Reaves's name and that of her mother Wilma J. Hagood (the "joint accounts"). On Berkeley Row's motion, the court joined Hagood to the action as a third party.

¶4 Reaves and Hagood filed an objection to garnishment of the joint accounts, and the matter proceeded to an evidentiary hearing. Reaves and Hagood testified that the money in the joint accounts was Hagood's alone and Reaves was named on the accounts only because Hagood, who was elderly and in poor health, required Reaves's assistance and wished for Reaves to inherit the accounts. Based on this testimony, the superior court ruled in an unsigned minute entry that only the sole account could be garnished, and ordered the parties to submit a form of judgment.

¶5 Berkeley Row filed a motion for reconsideration under Ariz. R. Civ. P. 7.1(e), and the court denied the motion in an unsigned minute entry filed on August 20, 2012. The parties thereafter lodged a form of judgment ordering garnishment of the sole account and release of the funds held in the joint accounts. The superior court signed the judgment and filed it on September 10. Several days later, Berkeley Row moved the court to sign the August 20 minute entry. The court granted this motion on November 15, and Berkeley Row filed a notice of appeal "from the

BERKELEY v. REAVES
Decision of the Court

Superior Court's Minute Entry denying Plaintiff's Motion for Reconsideration" on December 10.

¶6 We have an independent duty to determine our jurisdiction to consider this appeal. *Sorensen v. Farmers Ins. Co. of Ariz.*, 191 Ariz. 464, 465, 957 P.2d 1007, 1008 (App. 1997). Berkeley Row purports to appeal from the superior court's denial of the motion for reconsideration. This ruling was not separately appealable because it preceded entry of the signed final judgment. *Rourk v. State*, 170 Ariz. 6, 13, 821 P.2d 273, 280 (App. 1991). The fact that the court later signed the ruling did not extend the time for appeal from the judgment. Under ARCAP 9(a), Berkeley Row was required to appeal no later than 30 days after the judgment's entry. It did not do so. Nor did it take any action to extend the time for appeal.

¶7 We have no jurisdiction to consider this untimely appeal, and must dismiss it. *Edwards v. Young*, 107 Ariz. 283, 284, 486 P.2d 181, 182 (1971).



Ruth A. Willingham - Clerk of the Court
FILED: gsh