

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.34



DIVISION ONE
FILED: 01/17/2012
RUTH A. WILLINGHAM,
CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

LISA GAILEY,)
) No. 1 CA-SA 11-0300
Petitioner,)
) DEPARTMENT E
v.)
)
THE HONORABLE RANDOLPH A.) Mohave County
BARTLETT, Judge of the SUPERIOR) Superior Court
COURT OF THE STATE OF ARIZONA, in) No. CV 2010-07021
and for the County of MOHAVE,)
) **DECISION ORDER**
Respondent Judge,)
)
DONALD CAUDILL and BARBARA)
CAUDILL, husband and wife; A TO Z)
TAX AND BUSINESS SERVICES; MOHAVE)
COUNTY CONSTRUCTION INC.; DANIEL)
BROWN and SANDY BROWN, husband and)
wife,)
)
Real Parties in Interest.)
)

It has come to the attention of the Court, Presiding Judge Diane M. Johnsen and Judges Donn Kessler and Lawrence F. Winthrop, that the Court did not deliver to petitioner a copy of the order dated December 9, 2011, that set certain deadlines for the December 8, 2011, special action. For that reason, this Court erred by dismissing the special action based on petitioner's failure to comply with the December 9 order.

Mohave County
Superior Court
No. CV 2010-07021

The petition for special action contends the superior court erred by denying the request for change of judge as a matter of right, pursuant to Arizona Rule of Civil Procedure 42(f). Petitioner argues the motion for more definite statement did not result in a ruling on a contested issue, pursuant to Rule 42(f)(1)(D)(ii)(aa), because she did not contest the motion. Without deciding that issue, the Court notes that according to the record, the superior court held at least one "scheduled conference" that constitutes a waiver of petitioner's right to change of judge as of right. See Minute Entry Order filed October 14, 2010 (Pet. App. 25); Rule 42(f)(1)(D)(ii)(cc). Accordingly, and upon consideration,

IT IS ORDERED vacating the Court's prior order dated December 28, 2011, for failure to comply with the December 9 order;

IT IS FURTHER ORDERED declining to accept jurisdiction of the petition for special action.

IT IS FURTHER ORDERED vacating this Court's previous order requiring the filing and service of a response.

No. 1 CA-SA 11-0300

Mohave County
Superior Court
No. CV 2010-07021

IT IS FURTHER ORDERED directing the clerk of this court to
send a copy of this order to the following:

Honorable Randolph A. Bartlett
Mohave County Superior Court
Division II
401 East Spring Street
P. O. Box 7000
Kingman, Arizona 86402-7000

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/s/ _____
DIANE M. JOHNSEN, Presiding Judge