

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2010

STRAX REJUVENATION AND AESTHETICS INSTITUTE, INC.,
Appellant,

v.

DONNA SHIELD and ROGER L. GORDON, M.D.,
Appellees.

No. 4D09-3587

[November 24, 2010]

ON REMAND FROM THE SUPREME COURT OF FLORIDA

DAMOORGIAN, J.

We reconsider on remand our opinion in *Strax Rejuvenation & Aesthetics Institute, Inc. v. Shield*, 24 So. 3d 666 (Fla. 4th DCA 2009), which was quashed by the Florida Supreme Court following its decision in *Strax Rejuvenation & Aesthetics Institute, Inc., v. Shield*, 35 Fla. L. Weekly S523 (Fla. Sept. 30, 2010). Pursuant to the Supreme Court mandate, we remand the matter for an evidentiary hearing to determine the actual date the notice of appeal was filed in the circuit court. At the evidentiary hearing, Strax must overcome, by competent and substantial evidence, the presumption that the clerk's time stamp on the notice of appeal accurately reflects the date the notice was filed in the circuit court. In order for this court to determine whether Strax timely filed its notice of appeal, Strax shall file, with this court, a copy of the circuit court order with its findings as to the filing date of the notice of appeal within ten days from the date of entry of the order.

Remanded for Further Proceedings.

TAYLOR and HAZOURI, JJ., concur.

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Appeal of a non-final order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Peter M. Weinstein, Judge; L.T. Case No. 08-64365 (12).

Dinah Stein of Hicks, Porter, Ebenfeld & Stein, P.A., Miami, and
Monica L. Pierce of Chimpoulis & Hunter, P.A., Davie, for appellant.

Susan S. Lerner of Josephs Jack, Miami, for appellee, Donna Shield.

Not final until disposition of timely filed motion for rehearing.