

Opinion filed July 27, 2017



In The
Eleventh Court of Appeals

No. 11-16-00095-CV

PAULA MORRIS, Appellant

V.

JOSE TERRAZAS AND THERESA MYERS, Appellees

**On Appeal from the County Court at Law No. 2
Midland County, Texas
Trial Court Cause No. CC17487**

**MEMORANDUM OPINION ON
MOTION FOR REHEARING**

Paula Morris, Appellant, moved for a rehearing after the original opinion was issued in this case. In her motion for rehearing, she asserts that she timely filed suit in justice court on October 21, 2013, and in support of her assertion, she attached a case history printout that she asserts came from the justice court. She asserts that this court should change its opinion because of the error involved with the date that the suit was filed in the justice court. We note that the document attached to her

motion for rehearing is not in the appellate record. We also note that evidence that is not contained in the appellate record, which consists of the clerk's record and the reporter's record, is not properly before this court. *See* TEX. R. APP. P. 34.1, 34.5, 34.6; *see also Tex. Windstorm Ins. Ass'n v. Jones*, 512 S.W.3d 545, 552 (Tex. App.—Houston [1st Dist.] 2016, no pet.); *In re L.T.H.*, 502 S.W.3d 338, 342 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (citing *WorldPeace v. Comm'n for Lawyer Discipline*, 183 S.W.3d 451, 465 n.23 (Tex. App.—Houston [14th Dist.] 2005, pet. denied)); *Save Our Springs All., Inc. v. City of Dripping Springs*, 304 S.W.3d 871, 892 (Tex. App.—Austin 2010, pet. denied); *Burke v. Ins. Auto Auctions Corp.*, 169 S.W.3d 771, 775 (Tex. App.—Dallas 2005, pet. denied). Even when a party asserts that the attached documents were filed with the trial court, if the documents were not properly included in the appellate record, we are unable to consider them in our review. *Perry v. Kroger Stores, Store No. 119*, 741 S.W.2d 533, 534–35 (Tex. App.—Dallas 1987, no writ). In this case, the document attached to Appellant's motion for rehearing is not in the appellate record, and the record reflects that Appellant's petition filed in her justice court suit bears a file-stamped date of November 4, 2013.

We deny Appellant's motion for rehearing.

MIKE WILLSON
JUSTICE

July 27, 2017

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.