

**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. 31.24

**FILED BY CLERK**  
**OCT 26 2010**  
COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

MANUEL A. LOPEZ,	)	
	)	2 CA-CV 2010-0076
Plaintiff/Appellant,	)	DEPARTMENT A
	)	
v.	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
WALGREENS,	)	Rule 28, Rules of Civil
	)	Appellate Procedure
Defendant/Appellee.	)	
	)	

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APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. C20075916

Honorable Ted B. Borek, Judge

APPEAL DISMISSED

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Manuel A. Lopez	Tucson
	In Propria Persona

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.	
By James K. Mackie and F. David Harlow	Tucson
	Attorneys for
	Defendant/Appellee

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ESPINOSA, Judge.

¶1 Manuel Lopez appeals from the trial court's denial of his motion for reconsideration of its order striking his appeal and affirming an arbitration award. We dismiss the appeal for lack of jurisdiction.

## **Factual and Procedural History**

¶2 In October 2007, Lopez sued Walgreens after being served at a Walgreens store in a manner that he alleged was rude and discriminatory. When the case proceeded to arbitration in 2009, Lopez participated in a portion of the proceeding, but then became angry with the arbitrator and left the hearing before it was completed and before Walgreens had an opportunity to complete its cross-examination of him. At the close of evidence, the arbitrator awarded judgment in favor of Walgreens. Lopez appealed the award to the Pima County Superior Court, which concluded he had “demonstrated a significant, unjustified lack of good faith participation in the arbitration hearing,” and, accordingly, struck his appeal and affirmed the arbitrator’s decision. Lopez then filed a motion for reconsideration in which he reurged the same claims he had made in his appeal to the superior court. After the court denied this motion for reconsideration, Lopez filed a notice of appeal from that ruling.

## **Discussion**

¶3 We have an independent duty to determine whether we have jurisdiction over an appeal. *Sorensen v. Farmers Ins. Co.*, 191 Ariz. 464, 465, 957 P.2d 1007, 1008 (App. 1997). Our jurisdiction is prescribed by statute and we have no authority to entertain an appeal over which we do not have jurisdiction. *See Hall Family Props., Ltd. v. Gosnell Dev. Corp.*, 185 Ariz. 382, 386, 916 P.2d 1098, 1102 (App. 1995). Section 12-2101(C), A.R.S., provides that this court has jurisdiction over an appeal from a special order entered after judgment. But, in order to be appealable, “a special order after judgment must raise different issues than those that would be raised by appealing the

underlying judgment.” *In re Marriage of Doorman*, 198 Ariz. 298, ¶ 3, 9 P.3d 329, 331 (App. 2000); *In re 1971 Dodge Ariz. License No. 2PK-245*, 130 Ariz. 510, 512, 637 P.2d 312, 314 (App. 1981) (post-judgment order not appealable if presents same question as would be presented on appeal from judgment); *cf. Engineers v. Sharpe*, 117 Ariz. 413, 416, 573 P.2d 487, 490 (1977) (because court ruled on motion for reconsideration after entry of final judgment and vacated judgment, it constituted appealable special order after judgment). Lopez raised no new issues in his motion for reconsideration and his appeal from the ruling on that motion presents identical issues to those that would have been presented on appeal from the initial judgment. *See Arvizu v. Fernandez*, 183 Ariz. 224, 227, 902 P.2d 830, 833 (App. 1995) (barring appeal of post-judgment orders prevents delayed appeal of judgment and multiple appeals of same issue). Accordingly, we lack jurisdiction over this appeal.

### Disposition

¶4 The appeal is dismissed.

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge