

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-005820

07/21/2006

HONORABLE BARRY C. SCHNEIDER

CLERK OF THE COURT
W. Yank
Deputy

FILED: 07/25/2006

DANIEL J RADACOSKY

DANIEL J RADACOSKY
4582 E CHUCHWALLA CANYON
PHOENIX AZ 85044

v.

JOHN DOE, et al.

ERIC COMBS
425 WALNUT ST
STE 1800
CINCINNATI OHIO 45202-3957

MINUTE ENTRY

On July 18, 2005, upon motion by Plaintiff, this court entered an order extending time for service to October 17, 2005. On November 26, 2005, no proof of service having been completed, Civil Court Administration administratively dismissed the action for lack of service.

On July 27, 2006 Plaintiff filed a Motion to Reinstate, to Extend Time for Service, and to Sever Claims Against Krommer Defendants. Plaintiff was not required to send a copy of the motion to any unserved defendant and no copies were sent. By mistake, this division's staff tickled the June 27, 2006 motion for response on July 19, 2006. It should not have been tickled since prospective unserved defendants have no standing to oppose the motion.

On July 18, 2006, this court received a faxed letter from Eric K. Combs, an attorney representing a "putative defendant" but not identifying who the defendant is, requesting additional time to respond by either applying for pro hac vice admission or by retaining Arizona counsel. As noted, defendants have no standing to respond. If there is a favorable ruling on the motion, defendants who are served possess all the rights available to defendants to attack any ruling or move to dismiss the complaint. Accordingly, there is no reason for this court to address the faxed letter from Mr. Combs.

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The court has reviewed Plaintiff's motion. Although not referenced, the motion is essentially a motion for relief from judgment pursuant to Rule 60(c), Ariz. R. Civ. P. The court, on its own, has reviewed the motion from the perspective of Rule 60(c) and finds that the requirements of the rule have not been met.

In addition, the court has reviewed the complaint and, on its own, determines that the complaint fails to state a claim for relief. The complaint contains no statement setting forth a cognizable claim.

For all the above reasons,

IT IS ORDERED DENYING Plaintiff's Motion to Reinstate, to Extend Time for Service, and to Sever Claims Against Krommer Defendants.

IT IS FURTHER ORDERED Affirming the previous dismissal.

FILED: Order Reinstating Action, Extending Time for Service, and Severing Claims Against Defendants Krommer, **unsigned**.