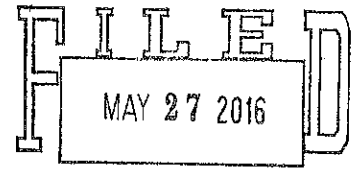


COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER



COURT OF APPEAL FOURTH DISTRICT

Antelope Valley Groundwater Cases

E065512

(Super.Ct.No. JCCP4408)

The County of Los Angeles

THE COURT

This court has reviewed the civil case information statements filed by appellant Phelan Pinon Hills Community Services District on April 11, 2016, by appellants Charles Tapia et al. on April 21, 2016, and by Mark Ritter, as Successor Trustee etc. et al. on April 21, 2016, the notices of appeal filed February 19, 2016, March 2, 2016, and March 2, 2016, by those parties, respectively and the judgment filed December 28, 2015, that appellants attached to the civil case information statements. Each of the notices of appeal states that appellants are appealing from a judgment entered on December 23, 2015. However, although the trial court judge signed the judgment on December 23, 2015, the judgment was not filed until December 28, 2015.

"[N]otices of appeal are to be liberally construed so as to protect the right of appeal if it is reasonably clear what appellant was trying to appeal from, and where respondent could not possibly have been misled or prejudiced." (*Luz v. Lopes* (1960) 55 Cal.2d 54, 59; see also *Walker v. Los Angeles County Metropolitan Transportation Authority* (2005) 35 Cal.4th 15, 20.) Consequently, the court hereby CONSTRUES the notices of appeal filed by appellants listed above to have been taken from the judgment filed December 28, 2015, as it is reasonably clear that this is what appellants intended.

In addition, in their notice of appeal appellants Mark Ritter, as Successor Trustee etc. et al. state they are appealing from the judgment as well as a February 10, 2016, order denying a motion to set aside the judgment yet they do not attach a copy of the February 10, 2016, order to the civil case information statement. The civil case information statement form clearly instructs appellants to attach a copy of the judgment or order appealed. Appellants have failed to timely comply with this requirement as to the February 10, 2016, order. It is appellants' responsibility to provide an appealable judgment. (*Jordan v. Malone* (1992) 5 Cal.App.4th 18, 21-22.)

COPY

Generally, orders denying a motion to set aside are not appealable because that would effectively allow two appeals from the same decision. (*Scognamillo v. Herrick* (2003) 106 Cal.App. 4th 1139, 1146.) However, there are several exceptions to the rule. An appeal may be taken from an order denying a statutory motion to set aside (Code Civ. Proc., §§ 473, 473.5 or 663), from an order denying a motion to vacate a void judgment, or if there was no ability to effectively appeal from the judgment. (See generally Eisenberg et al., Cal. Practice Guide: Civil Appeals & Writs (The Rutter Group 2009) ¶ 2:169 et seq., p. 2-94 et seq.)

Therefore, if it is the intention of appellants Mark Ritter, as Successor Trustee etc. et al. to appeal from the February 10, 2016, order appellants are DIRECTED to serve and file a copy of the order with the clerk of this court on or before 15 days from the date of this order. And, in order for the court to evaluate the validity of the appeal from the February 10, 2016, order denying the motion to set aside the judgment, appellants are further DIRECTED to file with this court, on or before 15 days following the date of this order, a letter memorandum explaining whether the order is appealable because it falls into one of the exceptions to the rule of non-appealability and how any such exception applies. Failure to comply with this order may result in dismissal of the appeal as to the February 10, 2016, order.

RAMIREZ

Presiding Justice

cc: See attached list

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Antelope Valley Groundwater Cases

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Antelope Valley Groundwater Cases

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