



**SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY  
COURT OF APPEALS**

10,005 E. OSBORN RD. SCOTTSDALE, AZ 85256 (480)362.6315

**ELSIE TIRATIRA PIANO, individually as surviving spouse of GLENN PIANO; and as Personal Representative of the estate of GLENN PIANO,**

**Plaintiffs/Appellant,**

**-v-**

**ERIN LOUISE BERSANO, an Individual; JOHN DOE BERSANO, Husband of Erin Louise Bersano, and both as Husband and Wife; SALT RIVER PIMA MARICOPA INDIAN COMMUNITY TRIBE, a COMMUNITY TRIBE, a federally recognized Indian Tribe, DOES 1-10, unknown entities; DOES 11-20, unknown individuals,**

**Defendants/Appellees.**

Case No.: **APC-18-0003**

**ORDER DISMISSING APPEAL**

FILED  
2018 FEB 14 AM 9:00  
SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Appellant requested and received two extensions of time for filing the Opening Brief in this appeal. Pursuant to the second extension, that Brief was required to be filed with the Court of Appeals on January 16, 2018.

The Opening Brief was not received by the Court on January 16. Nor was a request received for an additional extension of time. On January 18, the Opening

Brief arrived at the court office via priority mail.

On January 19, a Motion to Dismiss Appellant's Opening Brief and Notice of Appeal was filed by Appellee, based on Appellant's failure to timely file the brief. Appellee filed two pleadings on January 23, opposing the Motion to Dismiss, neither of which the Court finds persuasive. The "research, analysis and brief preparation" which appellant states delayed the filing is the same research, analysis and brief preparation which won two continuances on appeal and two at the trial level. The same issues have been researched and analyzed since the inception of this case, which has proceeded through the courts on strictly legal issues.

Rule 12 of the Rules of Civil Appellate Procedure states that a brief "is deemed timely filed if it is received by the appellate clerk within the time limits set forth..." Rule 11(b) indicates that appellant's failure to "file a brief will result in dismissal of the appeal." Service by mailing is not equivalent to filing (See Rule 8 of the SRPMIC Rules of Appellate Procedure). Filing requires actual receipt on the due date, which did not happen here. Based on the failure to timely file the Opening Brief and in order for deadlines to have meaning in the Courts;

IT IS HEREBY ORDERED that the Motion to Dismiss is granted and this Appeal is dismissed.

**ISSUED** this 14<sup>th</sup> day of February, 2018.

SEAL

Electronically approved

/s/

Paul Bender, **Justice**

Electronically approved

/s/

Mary Guss, **Justice**

Electronically approved

/s/

Siera Russell, **Justice**

FILED  
2010 FEB 14 AM 9:01  
CLERK OF COURT