

Karen Ann EISEN *v.* John A. SMITH
& Wanda Smith

07-873

261 S.W.3d 468

Supreme Court of Arkansas
Opinion delivered September 6, 2007

APPEAL & ERROR — MOTION FOR RULE ON CLERK. — Appellant's motion for rule on clerk was granted where a review of the record revealed that the record was timely tendered to the court.

Motion for Rule on Clerk, granted.

Robert R. Cloar, for appellant.

J. Timothy Smith, for appellees.

PER CURIAM. Appellant Karen A. Eisen moves this court for a rule on clerk, claiming that she tendered the record in a timely fashion. The record reflects that in *Smith v. Eisen*, 97 Ark. App. 130, 245 S.W.3d 160 (2006), the court of appeals reversed and remanded on cross-appeal, directing the circuit court to take evidence on the issue of attorney's fees and to enter an appropriate award to Eisen. The circuit court did so and entered its order, awarding Eisen \$17,666.25 in fees, on March 7, 2007.

On March 21, 2007, Eisen filed a timely posttrial motion for partial relief from the judgment on attorney's fees and other items and a brief in support. The Smiths responded, and while the circuit court sent correspondence to the parties on the matter, no order was filed. The motion was thus deemed denied on April 20, 2007. See Ark. R. App. P.—Civ. 4(b)(1) (2007). On May 16, 2007, Eisen timely filed her notice of appeal from both the March 7, 2007 order and the deemed denial of her posttrial motion. She then tendered the record to this court's clerk on August 10, 2007, which was well within the ninety-day period for filing the record. See Ark. R. App. P.—Civ. 5(a) (2007).

[1] Because our review of the record reveals that Eisen's record was timely tendered to this court, we grant her motion for rule on clerk and direct the clerk to file the record.

Motion for rule on clerk granted.