



JOSEPH A. LANE
CLERK OF THE COURT/EXECUTIVE
OFFICER

Court of Appeal

300 SOUTH SPRING STREET
SECOND FLOOR, NORTH TOWER
LOS ANGELES, CALIFORNIA 90013
(213) 830-7000

STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

May 5, 2017

Marina J. Boyd
10951 National Blvd., #302
Los Angeles, CA 90064

Dear Ms. Boyd,

The Court received your Petition for Rehearing of Motion to Vacate Dismissal and Reinstate Appeal on May 2, 2017. The Court is unable to grant your request for relief for the following reasons:

- a. The ability of the Court to Recall a Remittitur is limited. A remittitur may only be recalled on the ground of fraud, mistake, or inadvertence. *In re Gray* 179 Cal.App.4th 1189, 102 Caql.Rptr.3d 551,
- b. The record in this case indicates that this appeal was dismissed for default in the deposit of the required fees for the Reporter's Transcript on January 5, 2017. There is no record that a motion to vacate the dismissal and for relief from the default was timely made. The Remittitur was properly issued on March 8, 2017. There is no indication that the Remittitur was issued based on a mistake, inadvertence or fraud on the Court.
- c. The denial of the Motion to Recall Remittitur and Reinstate Appeal filed on April 7, 2017 was issued within the Rules of Court governing motions. The review and disposition of motions is not subject to the requirements of Government Code § 68081. Section 68081 specifically governs the issuance of opinions by the Courts of Appeal and Supreme Court. There is no statutory requirement that the Court afford a party an opportunity to brief or argue the basis of its decision to grant or deny a motion.
- d. Your Petition for Rehearing of Motion to Vacate Dismissal and Reinstate Appeal is a Motion for Reconsideration and fails to meet the requirements of Code of Civil Procedure §1008 that it be based on new and different facts, circumstances, or law.

The Court no longer has jurisdiction to act on this matter, therefore your Petition is returned to you unfiled.

Sincerely,

Joseph A. Lane, Clerk-Executive Officer

by: Melvin E. Ashmon

Melvin E. Ashmon, Senior Deputy Clerk