

ARGUMENT

APPELLANT’S APPEAL AS TO THE JULY 13, 2005 ORDER IS TIMELY AND CAN BE CONSIDERED BY THIS COURT

Respondent states that, “because the notice of entry of judgment in this case was mailed on July 13, 2005, the 60-day period for filing a notice of appeal expired at the latest on September 11, 2005. Appellant filed and served her Notice of Appeal on September 12, 2005...61-days after the mailing of the notice of entry of judgment.” (See, Respondent’s Opening Brief, page 27.) For this reason, Respondent asserts that this Court cannot consider Appellant’s appeal as to the trial court’s July 13, 2005 Order. Respectfully, Appellant disagrees.

Code of Civil Procedure section 12a(a) provides that “if the last day for the performance of any act provided or required by law to be performed within a specified period of time is a holiday, then that period is hereby extended to and including the next day which is not a holiday...” Code of Civil Procedure section 12b further provides that “if any city, county, state, or public office, other than a branch office, is closed for the whole of any day, insofar as the business of that office is concerned, that day shall be considered as a holiday for the purposes of computing time under Sections 12 and 12a.”

In this case, September 11, 2005 – the operative 60th day as provided under Rules of Court, rule 2 – was a Sunday. (See, Appellant’s Request for Judicial Notice, submitted herewith.) The Sonoma County Superior Court does not conduct any business on Sunday.