

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

**PREMIUM FARMS, a general
partnership,**

Plaintiff,

vs.

HOLT COUNTY, NEBRASKA,

Defendant.

Case No. CI99-94

**SUPPLEMENTAL
MEMORANDUM AND ORDER**

DATE OF HEARING: No hearing held.
DATE OF RENDITION: July 14, 2000.
DATE OF ENTRY: Date of filing by court clerk (§ 25-1301(3)).
SUBJECT OF ORDER: Plaintiff's motion to amend decree and judgment.
MEMORANDUM: The court finds and concludes that:

1. This court previously rendered on July 13 a memorandum and order declining to consider the plaintiff's motion to amend decree.

2. Since the entry thereof, the clerk of this court has certified that the notice of appeal and the amount of the docket fee, but not the legal services fee, were actually received in the office of the clerk of July 12, although not file stamped until July 13.

3. At the time of the court's previous memorandum and order, the file did not so reflect.

4. Under *State v. Parmar*, 255 Neb. 356, 586 N.W.2d 279 (1998), the word "filed" in NEB. REV. STAT. § 25-1912 (Reissue 1995) means received in the office of the clerk of the district court. Thus, the notice of appeal and docket fee are deemed as "filed" on July 12 even though not file-stamped as such until July 13.

5. Because the change in L.B. 921 did not become effective until July 13, it appears that the former law applies. Thus, under *Kinsey v. Colfer, Lyons, Wood, Malcom & Goodwin*, 258 Neb. 832, ___ N.W.2d ___ (2000), the pending motion to amend that had not been ruled upon by this court became moot and this court no longer has jurisdiction.

6. Thus, the same result obtains as before. This court will decline to act upon the motion to amend judgment. This court simply does not desire the previous memorandum and order to appear to disregard these circumstances now apparent.

ORDER: IT IS THEREFORE ORDERED that:

1. This court declines to rule upon the motion to amend judgment for lack of jurisdiction.
2. The clerk of this court is ordered to include a copy of this Supplemental Memorandum and Order in the transcript, or if the transcript has already been submitted, to include this Supplemental Memorandum and Order in a supplemental transcript, and to transmit the same to the Clerk of the Supreme Court and Court of Appeals.

Signed in chambers at Ainsworth, Nebraska, on July 14, 2000.
DEEMED ENTERED upon filing by court clerk.

If checked, the Court Clerk shall:

- Mail a copy of this order to all counsel of record and to any pro se parties.
Done on _____, 20__ by ____.
- Include a copy of this order in transcript or supplemental transcript to Court of Appeals.
Done on _____, 20__ by ____.
- Note the decision on the trial docket as: [date of filing] Signed "Supplemental Memorandum and Order" entered.
Done on _____, 20__ by ____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge