

Opinion issued August 30, 2012



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-11-00440-CV

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**JAMES WHITTAKER, Appellant**

**V.**

**REGAL PLASTICS SUPPLY COMPANY, Appellee**

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**On Appeal from the 189th District Court  
Harris County, Texas  
Trial Court Cause No. 1034980**

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**MEMORANDUM OPINION**

Appellant James Whittaker attempts to appeal from the trial court's order dismissing the underlying case. We dismiss the appeal for lack of jurisdiction.

Generally, a notice of appeal is due within thirty days after the judgment or order is signed. *See* TEX. R. APP. P. 26.1. The deadline to file a notice of appeal is extended to 90 days after the date the judgment or order is signed if any party timely files a motion for new trial, motion to modify the judgment, motion to reinstate, or, under certain circumstances, a request for findings of fact and conclusions of law. *See* TEX. R. APP. P. 26.1(a).

The record reflects that, on September 14, 2010, the trial court, acting on the motion of appellee Regal Plastics Supply Company, dismissed with prejudice appellant's claims against appellee and ordered that appellant take nothing. Appellant did not file a motion for new trial. *See* TEX. R. CIV. P. 329b(a). Appellant's notice of appeal was due by October 14, 2010. Appellant did not file a notice of appeal until seven months later, on May 23, 2011. Because appellant's notice of appeal was untimely filed, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1(b).

We notified appellant that the appeal was subject to dismissal for want of jurisdiction unless he filed a response showing grounds for continuing the appeal. *See* TEX. R. APP. P. 42.3(a). Appellant filed a response, but it does not show grounds for continuing the appeal.

Accordingly, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP.

P. 43.2(f). We dismiss any pending motions as moot.

**PER CURIAM**

Panel consists of Chief Justice Radack and Justices Jennings and Keyes.