

Opinion issued October 29, 2015



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

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NO. 01-15-00514-CV

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**IVY JANE SIMON, Appellant**

**V.**

**CYPRESSWOOD SNF OPERATIONS, LLC, Appellee**

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**On Appeal from the 55th District Court  
Harris County, Texas  
Trial Court Case No. 2014-42890**

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**MEMORANDUM OPINION**

Appellant, Ivy Jane Simon, attempts to appeal from the trial court's judgment signed on February 9, 2015. Appellee, Cypresswood SNF Operations,

LLC, has filed a motion to dismiss the appeal for want of jurisdiction. We grant Cypresswood's motion and dismiss the appeal.

Generally, a notice of appeal is due within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. The deadline to file a notice of appeal is extended to ninety days after the date the judgment is signed if, within thirty days after the judgment is signed, any party files a motion for new trial, motion to modify the judgment, or motion to reinstate. *Id.*; *see* TEX. R. CIV. P. 329b(a), (g). The time to file a notice of appeal also may be extended if, within fifteen days after the deadline to file the notice of appeal, a party properly files a motion for extension. *See* TEX. R. APP. P. 10.5(b), 26.3. And a motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day extension period provided by rule 26.3. *See* TEX. R. APP. P. 26.1, 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

Here, the trial court signed the final judgment on February 9, 2015. A motion for new trial was due by March 11, 2015. Because Simon timely filed a motion for new trial, Simon's notice of appeal was due no later than May 11, 2015, or May 26, 2015, with a fifteen-day extension. TEX. R. APP. P. 4.1, 26.1, 26.3; *see* Tex. R. Civ. P. 329b(g). Simon untimely filed her notice of appeal on June 3, 2015.

Without a timely filed notice of appeal, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1. Accordingly, we grant Cypresswood's motion and dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss any other pending motions as moot.

**PER CURIAM**

Panel consists of Justices Keyes, Massengale, and Lloyd.