

Dismissed and Memorandum Opinion filed May 20, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00213-CV

**CYNTHIA SELPH, ANTHONY SELPH, WALTON SELPH, AND AL SELPH,
Appellants**

V.

SSC HOUSTON WOODWIND OPERATING COMPANY, L.P., Appellees

**On Appeal from the 80th District court
Harris County, Texas
Trial Court Cause No. 2007-76335**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed October 2, 2009. A motion for new trial was filed on October 19, 2009. Appellants' notice of appeal was filed March 3, 2010.

When an appellant has filed a timely motion for new trial, the notice of appeal must be filed within ninety days after the date the judgment is signed. *See* Tex. R. App. P. 26.1(a). Appellants' notice of appeal was not filed timely.

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 grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (1997) (construing the predecessor to Rule 26). Appellants' notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

On April 8, 2010, notification was transmitted to all parties of the court's intention to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). Appellant filed no response. Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Brown, Sullivan, and Christopher.