



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 2-09-138-CV

AEP ENGINEERING & CONSULTING, INC. d/b/a
TEXAS CONVEYORS INTERNATIONAL

APPELLANT

V.

ADVANCE LIFTS, INC.

APPELLEE

FROM COUNTY COURT AT LAW NO. 2 OF TARRANT COUNTY

MEMORANDUM OPINION¹

On May 7, 2009, appellant AEP Engineering & Consulting, Inc. d/b/a Texas Conveyors International filed a notice of appeal from the trial court's judgment, which was signed on December 19, 2008. On May 18, 2009, we sent a letter to appellant stating our concern that we are without jurisdiction because appellant's motion for new trial was due on January 19, 2009, but

¹ [See](#) Tex. R. App. P. 47.4.

was not filed until March 9, 2009; therefore, it appeared the notice of appeal was not timely filed.² We informed appellant that unless it or any party filed a response showing grounds for continuing the appeal on or before May 28, 2009, the appeal could be dismissed for want of jurisdiction. Appellant has faxed us a copy of what appears to be the parties' Rule 11 agreement to discontinue the appeal.³

However, because appellant's notice of appeal is untimely, we have no jurisdiction to consider this appeal. Accordingly, we dismiss this appeal for want of jurisdiction.⁴

PER CURIAM

PANEL: CAYCE, C.J.; LIVINGSTON and DAUPHINOT, JJ.

DELIVERED: July 2, 2009

² [▲](#) See Tex. R. App. P. 26.1(a).

³ [▲](#) See Tex. R. Civ. P. 11.

⁴ [▲](#) See Tex. R. App. P. 42.3(a).