

DISMISS; and Opinion Filed August 26, 2013.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-13-00949-CV

LINQ PARTNERS, LLC, Appellant

V.

**GCU TRUCKING, INC., ROSALIO ARCOS, SR., SERGIO ARCOS,
RENE ARCOS, ROSALIO ARCOS, JR., VALLEY TIN
MANAGEMENT, INC., AND LOS ARCOS LEASING, INC., Appellees**

**On Appeal from the 192nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. 13-02262-K**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Lang-Miers, and Justice Evans
Opinion by Justice Lang-Miers

The Court has before it appellant's July 12, 2013 motion for extension of time to file notice of appeal and appellees' July 19, 2013 response to that motion. We deny the motion for extension of time and dismiss the appeal for want of jurisdiction.

The Texas Rules of Appellate Procedure provide that a motion to extend time to file a notice of appeal must include "the facts relied on to reasonably explain the need for an extension." TEX. R. APP. P. 10.5(b). The Texas Supreme Court has defined such an explanation as "any plausible statement of circumstance indicating that failure to file within the [required] period was not deliberate or intentional, but was the result of inadvertence, mistake or mischance." *Garcia v. Kastner Farms, Inc.*, 774 S.W.2d 668, 669 (Tex. 1989) (citation omitted).

However, in this case, appellant states that the notice was not filed on time because it filed a motion to vacate the order in question. This was a strategic decision, and such reasons for waiting to file a notice of appeal will not support an extension of time. *See Crossland v. Crossland*, No. 05-06-00228-CV, 2006 WL 925032, at *2 (Tex. App.—Dallas Apr. 11, 2006, no pet.).

Appellant admits that its notice of appeal was due on June 27, 2013, but it did not file the notice of appeal until July 12, 2013. Appellant's notice of appeal failed to invoke this Court's jurisdiction because it was untimely filed. Accordingly, we dismiss this appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE

130949F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

LINQ PARTNERS, LLC, Appellant

No. 05-13-00949-CV V.

GCU TRUCKING, INC., ROSALIO
ARCOS, SR., SERGIO ARCOS, RENE
ARCOS, ROSALIO ARCOS, JR., VALLEY
TIN MANAGEMENT, INC. AND LOS
ARCOS LEASING, INC., Appellees

On Appeal from the 192nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. 13-02262-K.

Opinion delivered by Justice Lang-Miers.
Chief Justice Wright and Justice Evans
participating.

In accordance with this Court's opinion of this date, this appeal is **DISMISSED** for want of jurisdiction.

It is **ORDERED** that appellees GCU TRUCKING, INC., ROSALIO ARCOS, SR., SERGIO ARCOS, RENE ARCOS, ROSALIO ARCOS, JR., VALLEY TIN MANAGEMENT, INC. AND LOS ARCOS LEASING, INC. recover their costs of this appeal from appellant LINQ PARTNERS, LLC.

Judgment entered this 26th day of August, 2013.

/Elizabeth Lang-Miers/

ELIZABETH LANG-MIERS

JUSTICE