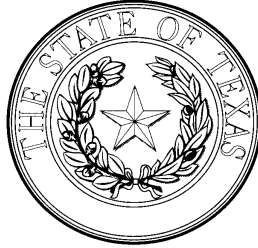


Opinion issued September 27, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-15-00899-CV

RITA LEMONS, Appellant

V.

**DON TRUSTCLAIRE, DON BLAKE, CARLOS PENA,
NOE GOMEZ, LATECIA GOMEZ, BERTHEL MARTINEZ,
AND ESTATE OF LEROY LEMONS, Appellees**

**On Appeal from the 240th District Court
Fort Bend County, Texas
Trial Court Case No. 14-DCV-213790**

MEMORANDUM OPINION

Appellant, Rita Lemons, attempts to appeal the trial court's "Partial Order Dismissing Respondent Parties at Trial" signed on June 5, 2015. We dismiss the

appeal for want of jurisdiction because, even if the underlying order is appealable, the notice of appeal of the order was untimely.

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 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); TEX. R. CIV. P. 329b(a), (g). The time to file a notice of appeal may also 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. 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, 617–18 (Tex. 1997).

Here, the trial court signed the order from which appellant appeals on June 15, 2015 and no motion was filed that would extend the notice of appeal deadline. Therefore, appellant's notice of appeal was due by July 15, 2015. *See* TEX. R. APP. P. 26.1. Appellant's notice of appeal was not filed until September 11, 2015, fifty-

eight days after the deadline. Without a timely filed notice of appeal, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1.

On August 9, 2016, the Clerk of this Court notified the appellant that this appeal was subject to dismissal for want of jurisdiction unless she demonstrated this Court had jurisdiction over this appeal. Appellant failed to file an adequate response.

Accordingly, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a), 43.2(f). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Bland, Massengale, and Lloyd.