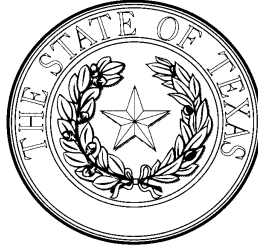


Opinion issued June 2, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-15-00909-CV

RITA LEMONS, Appellant

V.

**TRANSPLANT ASSOCIATES AT
BAYLOR HEALTH CARE SYSTEM, P.A., Appellee**

**On Appeal from the 151st District Court
Harris County, Texas
Trial Court Case No. 2000-34109F**

MEMORANDUM OPINION

Appellant, Rita Lemons, attempts to appeal from an order signed on July 13, 2015 denying appellant's "Motion for Default and Traverse Answer" and "Motion to Strike Answer and Enter Default Judgment." 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 July 13, 2015 and no motion was filed that would extend the notice of appeal deadline. Therefore, appellant's notice of appeal was due by August 12, 2015. *See* TEX. R. APP. P. 26.1. Appellant's notice of Appeal was not filed until October 16, 2015,

sixty-five 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 March 23, 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 respond.

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 Higley, Bland, and Massengale.