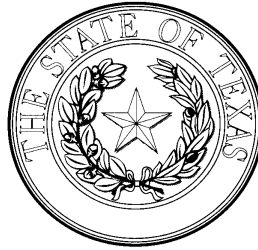


Opinion issued June 8, 2021



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-20-00541-CV

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**LARRY D. FORD, Appellant**

**V.**

**BROOKHOLLOW HEIGHTS TRANSITIONAL CARE CENTER, Appellee**

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**On Appeal from the 281st District Court  
Harris County, Texas  
Trial Court Case No. 2019-31725**

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**MEMORANDUM OPINION**

Appellant, Larry D. Ford, filed a notice of appeal on July 24, 2020 attempting to appeal the trial court's final order signed on May 19, 2020 granting appellee's

motion to dismiss the underlying suit because Ford failed to file a Chapter 74 expert report.<sup>1</sup> We dismiss the appeal for want of jurisdiction.

Absent a timely filed notice of appeal, an appellate court lacks jurisdiction over the appeal. TEX. R. APP. P. 25.1; *In re United Services Auto. Ass'n*, 307 S.W.3d 299, 307 (Tex. 2010). 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 Ford attempts to appeal on May 19, 2020. On June 25, 2020, Ford filed a Motion to Set Aside Judgment that

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<sup>1</sup> *See* TEX. CIV. PRAC. & REM. CODE § 74.351.

was followed by another Motion to Set Aside Judgment on July 23, 2020. Motions for new trial are timely if filed within thirty days after the complained-of judgment or order is signed. TEX. R. CIV. P. 329b(a). Under this rule, Ford's deadline for filing a motion for new trial was June 18, 2020. *See* TEX. R. CIV. P. 4; TEX. R. CIV. P. 329b(a). Because Ford's motion for new trial was not timely, the motion did not extend the deadline for filing his notice of appeal. *See* TEX. R. APP. P. 26.1(a) (providing that timely filed motion for new trial extends time for filing notice of appeal). Therefore, Ford's deadline to file his notice of appeal was June 18, 2020. *See* TEX. R. APP. P. 26.1.

Ford's notice of appeal was untimely filed on July 24, 2020, over one month after the Rule 26.1 deadline and well past the fifteen-day period in which Rule 26.3 authorizes us to grant an extension. Once the period for granting a motion for extension of time under Rule 26.3 has passed, a party can no longer invoke the appellate court's jurisdiction. *See Verburgt*, 959 S.W.2d at 617; *Brown Mech. Servs., Inc. v. Mountbatten Sur. Co.*, 377 S.W.3d 40, 44 (Tex. App.—Houston [1st Dist.] 2012, no pet.). Without a timely filed notice of appeal, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1.

The Clerk of this Court notified Ford that this appeal was subject to dismissal for want of jurisdiction unless he demonstrated that this Court has jurisdiction over

this appeal. Ford failed to file an adequate response demonstrating our jurisdiction over the appeal.<sup>2</sup>

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 Kelly, Landau, and Hightower.

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<sup>2</sup> Ford filed a response asserting, without argument or explanation, that his notice of appeal was timely. The response also asserts that expert testimony is not necessary but this assertion is irrelevant to the issue of our jurisdiction over the appeal.