

Motion Granted; Appeal Dismissed and Memorandum Opinion filed December 30, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00906-CV

LEOPOLD MALACHOWITSCH, Appellant

V.

**EXPO MOTORSCARS, L.P., EXPO HOLDINGS, L.P., AND EXPO
MOTORCARS, L.L.C., Appellees**

**On Appeal from the 189th District Court
Harris County, Texas
Trial Court Cause No. 2008-44763**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed May 17, 2010. Appellant filed a timely motion for new trial. When appellant has filed a timely motion for new trial, motion to modify the judgment, motion to reinstate, or request for findings of fact and conclusion of law, the notice of appeal must be filed within ninety days after the date the judgment is signed. *See* Tex. R. App. P. 26.1(a). The notice of appeal was therefore due August 16, 2010. *See* Tex. R. App. P. 26.1. Appellant, however, filed his notice of

appeal on September 16, 2010, a date that is not within the fifteen-day period provided by Texas Rule of Appellate Procedure 26.3. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

On December 10, 2010, notification was transmitted to all parties of the court's intention to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). On December 15, 2010, appellees filed a motion to dismiss for want of jurisdiction. On December 16, 2010, appellant filed a response.

In his response appellant fails to demonstrate that this court has jurisdiction to entertain the appeal. Accordingly, appellees' motion is granted and the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Anderson, Frost, and Brown.