

Dismissed and Memorandum Opinion filed January 13, 2011.



In The

**Fourteenth Court of Appeals**

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**NO. 14-10-01057-CV**

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**CONN'S PLASTERING, INC., Appellant**

**V.**

**DREAMTECH HOMES, LTD., Appellee**

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**On Appeal from the 190th District Court  
Harris County, Texas  
Trial Court Cause No. 2009-47084**

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**MEMORANDUM OPINION**

This is an attempted appeal from a default judgment signed May 25, 2010. Appellant filed an untimely motion for new trial on August 20, 2010. The notice of appeal was not filed until October 25, 2010.

If no timely motion for new trial is filed, the notice of appeal is due within 30 days after the judgment is signed. Tex. R. App. P. 26.1. In a restricted appeal, however, the notice of appeal must be filed within six months after the judgment is signed. Tex. R.

App. P. 26.1(c). A restricted appeal is available to a party who did not participate, either in person or through counsel, in the hearing that resulted in the judgment complained of and who did not timely file a postjudgment motion or request for findings of fact and conclusions of law. Tex. R. App. P. 30.

The notice of appeal contained in the clerk's record does not comply with the requirements for proceeding as a restricted appeal. *See* Tex. R. App. P. 25.1(d)(7). Accordingly, this court ordered appellant to file an amended notice of appeal in compliance with the Rules of Appellate Procedure within 15 days of the date of the order. Appellant did not file an amended notice of appeal or otherwise respond to this court's order.

On December 2, 2010, notification was transmitted to the parties of this court's intention to dismiss the appeal for want of jurisdiction unless appellant filed a response demonstrating grounds for continuing the appeal within 10 days. *See* Tex. R. App. P. 42.3(a). No response was filed.

In addition, the appellate filing fee of \$175.00 has not been paid. The court ordered appellant to pay the filing fee in the amount of \$175.00 to the Clerk of this court on or before December 31, 2010. *See* Tex. R. App. P. 5. The order advised appellant that if it failed to timely comply, the appeal would be dismissed. The filing fee was not paid.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Frost and Christopher.