

Dismissed and Memorandum Opinion filed September 13, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00623-CV

MARTHA WINDOM, Appellant

V.

WAUSAU UNDERWRITERS COMPANY, Appellee

On Appeal from the 269th District Court
Harris County, Texas
Trial Court Cause No. 2010-27590

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed January 14, 2011. Appellant filed a timely motion for new trial on February 7, 2011. Appellant's notice of appeal was filed July 19, 2011.

When appellant has filed a timely motion for new trial 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).

Appellant's notice of appeal was not filed timely. 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 grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (1997) (construing the predecessor to Rule 26). Appellant's notice of appeal was not filed within the fifteen-day period provided by Rule 26.3.

On August 8, 2011, 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)*. Appellant's response fails to demonstrate that this court has jurisdiction to entertain the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Frost, Seymore, and Jamison.