

Motion Granted; Appeal Dismissed and Memorandum Opinion filed September 16, 2014.



**In The
Fourteenth Court of Appeals**

NO. 14-14-00450-CV

DOV AVNI KAMINETZKY AKA DOV K. AVNI, Appellant

V.

DOSOHS I, LTD, Appellee

**On Appeal from the 125th District Court
Harris County, Texas
Trial Court Cause No. 2011-53721**

M E M O R A N D U M O P I N I O N

This is an attempted appeal from a judgment signed March 7, 2014. On July 17, 2014, appellee filed a motion to dismiss the appeal. *See* Tex. R. App. P. 42.1. The motion is granted.

The record reflects appellant filed a motion on April 7, 2014. The substance of the motion, however, does not seek to alter the final summary judgment signed March 7, 2014. The notice of appeal must be filed within thirty days after the

judgment is signed when appellant has not filed a post-judgment motion seeking to alter the trial court's judgment.¹ *See* Tex. R. App. P. 26.1.

Appellant's notice of appeal was untimely filed on June 5, 2014. 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.

Appellant has filed no response to appellee's motion to dismiss that demonstrates this Court has jurisdiction to entertain the appeal. Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices McCally, Brown and Wise.

¹ Appellant's request for findings of fact and conclusions of law filed March 17, 2014, does not operate to extend the appellate timetable in this context.