

**Motion Granted in Part and Denied in Part; Appeal Dismissed and  
Memorandum Opinion filed February 2, 2016.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-15-01082-CV**

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**KEVIN JOHNSON, Appellant**

**V.**

**REX HANSEN AS ASSIGNEE OF STEPHEN J. ZAYLER, CHAPTER 7  
TRUSTEE, Appellee**

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**On Appeal from the 281st District Court  
Harris County, Texas  
Trial Court Cause No. 2015-28116**

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

This is an attempted appeal from a foreign judgment filed in Texas under the Uniform Enforcement of Foreign Judgments Act. *See* Tex. Civ. Prac. & Rem. Code Ann. § 35.001–.008. Appellee filed a motion to dismiss for lack of jurisdiction on January 15, 2015. His motion includes a request for damages under Tex. R. App. P. 45. Appellant did not file a response.

A foreign judgment filed under the Uniform Enforcement of Judgments Act operates as both an original petition and a final judgment. *Walnut Equip. Leasing Co. v. Wu*, 920 S.W.2d 285, 286 (Tex. 1996) (per curiam). Appellee filed the foreign judgment in the district court on May 14, 2015. Appellant received notice of the judgment on June 6. Appellant filed a motion to dismiss on June 17, which operated as a motion for new trial for appellate purposes. *H. Heller & Co. v. Louisiana-Pacific Corp.*, 209 S.W.3d 844, 849 (Tex. App.—Houston [14th Dist.] 2006, pet. denied). Appellant filed the notice of appeal on December 17, 2015.

Appellee treats June 6 as the date of the judgment for appellate purposes. *See* Tex. R. Civ. P. 306a(4). Because appellant filed a motion for new trial, the notice of appeal was due 90 days after June 6, which was September 4, 2015. *See* Tex. R. App. P. 26(a)(1).

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 15-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 15-day period provided by Rule 26.3.

Accordingly, the appeal is **DISMISSED**. Appellee's request for attorney's fees is **DENIED**.

PER CURIAM

Panel consists of Justices Jamison, Donovan, and Brown.