

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00349-CV

HOA DAO AND KEYSTONE MANAGEMENT, Appellants

V.

MARYLAND CASUALTY INS. AND CRAIG RAUSS, Appellees

On Appeal from the 359th District Court
Montgomery County, Texas
Trial Cause No. 10-07-07575-CV

MEMORANDUM OPINION

Hoa Dao and Keystone Management¹ filed a notice of appeal on September 19, 2016. The Court notified the parties that the notice of appeal did not appear to have been timely filed. In a response, Hoa Dao argued the notice of appeal was due either 120 days after the date the judgment was signed or 90 days after the date the

¹ The trial court's judgment disposes of the claims of Hoa Dao d/b/a Keystone Management and Huy Can Dao d/b/a Keystone Management. The notice of appeal was signed by Hoa Dao, acting *pro se*.

motion for new trial was filed. She subsequently retained counsel and filed a motion for extension of time to file notice of appeal.

The judgment was signed on June 1, 2016, and the motion for new trial was filed on June 29, 2016; therefore, the notice of appeal was due to be filed by August 30, 2016. *See* Tex. R. App. P. 26.1(a)(1). The period for granting an extension of time to file the notice of appeal expired on September 14, 2016. *See* Tex. R. App. P. 26.3. The notice of appeal is dated September 16, 2016, and was received and e-filed by the trial court clerk on September 19, 2016. Absent a timely-filed notice of appeal or timely request to extend the period during which a party seeking to appeal must file its notice of appeal, we are required to dismiss the appeal for lack of jurisdiction. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Accordingly, we deny the motion for extension of time and we dismiss the appeal.

APPEAL DISMISSED.

HOLLIS HORTON
Justice

Submitted on October 19, 2016
Opinion Delivered October 20, 2016

Before McKeithen, C.J., Horton and Johnson, JJ.