



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-22-00239-CV

2M RESEARCH SERVICES, LLC AND MARCUS E. MARTIN, Appellants

v.

PRAGMATIC FINANCIAL, LLC, Appellee

On Appeal from the 348th District Court
Tarrant County, Texas
Trial Court No. 348-330937-21

Before Sudderth, C.J.; Wallach and Walker, JJ.
Memorandum Opinion by Justice Wallach

MEMORANDUM OPINION

Appellants 2M Research Services, LLC and Marcus E. Martin attempt to appeal from a default judgment, but their notice of appeal was untimely. We therefore dismiss the appeal.

“[T]he time for filing a notice of appeal is jurisdictional in this court, and absent a timely[]filed notice of appeal[,] . . . we must dismiss the appeal.” *In re Guardianship of Fulbright*, No. 02-16-00230-CV, 2016 WL 4395804, at *1 (Tex. App.—Fort Worth Aug. 18, 2016, no pet.) (per curiam) (mem. op.); *see* Tex. R. App. P. 25.1(b); *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Generally, a notice of appeal must be filed within thirty days after the appealable judgment or order is signed, unless the appellant files a qualifying post-judgment motion to extend the deadline. Tex. R. App. P. 26.1(a).

The trial court signed the default judgment on March 8, 2022, but Appellants did not file a notice of appeal until June 22, 2022. We notified the parties that the notice of appeal appeared untimely, and we expressed our concern that we lacked jurisdiction over the appeal. We warned that we would dismiss the appeal for want of jurisdiction unless, within ten days, Appellants (or any other party) filed a response showing grounds for continuing the appeal. *See* Tex. R. App. P. 42.3(a), 44.3.

Appellants then filed a motion for extension of time to file the notice of appeal. *See* Tex. R. App. P. 26.3. In the notice of appeal, they asserted that they had filed a motion for new trial on April 7, 2022. A timely-filed motion for new trial extends the

notice of appeal deadline to ninety days from the date of judgment. *See* Tex. R. App. P. 26.1(a). Accordingly, Appellants’ notice of appeal was due no later than June 6, 2022—or, with an extension, no later than June 21, 2022. *See* Tex. R. App. P. 26.1(a)(1), 26.3 (allowing appellate courts to extend notice-of-appeal deadline if notice of appeal and motion requesting extension are filed within fifteen days of notice-of-appeal deadline). Thus, neither Appellants’ notice of appeal nor their motion for extension was timely.

Appellants’ motion asserted that under Texas Rule of Civil Procedure 306a(4), the time for filing their notice of appeal began when they received notice of the judgment, which was March 14, 2022—six days after the judgment’s signing. *See* Tex. R. Civ. P. 306a(4). However, Rule 306a(4) applies when a party does not receive notice of the judgment within twenty days of the judgment’s signing. *See id.*; *In re Montemayor*, 2 S.W.3d 542, 545 (Tex. App.—San Antonio 1999, orig. proceeding). Thus, that rule does not apply here. Further, because Appellants timely filed a motion for new trial, we cannot construe their notice of appeal as one for a restricted appeal. *See* Tex. R. App. P. 30. Because Appellants did not timely file a notice of appeal, we dismiss the appeal for lack of jurisdiction. *See* Tex. R. App. P. 42.3(a).

/s/ Mike Wallach
Mike Wallach
Justice

Delivered: September 8, 2022