



**IN THE  
TENTH COURT OF APPEALS**

**No. 10-08-00005-CV**

**ROSE McCULLOUGH,**

**Appellant**

**v.**

**DEVON ENERGY PRODUCTION  
COMPANY, L.P.,**

**Appellee**

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**From the 413th District Court  
Johnson County, Texas  
Trial Court No. C2007000683**

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**ORDER**

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Our memorandum opinion dismissing Appellant Rose McCullough's appeal for want of jurisdiction was issued on July 30, 2008.

On August 4, 2008, Appellant filed her second motion for disqualification and/or recusal of the justices of this court. (Her first motion for disqualification and/or recusal was denied on June 18, 2008.) It does not contain proof of service, as required by Rule of Appellate Procedure 9.5(d). On September 2, 2008, Appellant filed a motion to reinstate, which we will treat as a motion for rehearing. Contained within it is a motion

for extension of time to file the motion for rehearing. Because the motion was mailed on August 29, it is timely. *See* TEX. R. APP. P. 9.2(b), 49.8. The motion does not contain proof of service, as required by Rule of Appellate Procedure 9.5(d).

We implement Rule of Appellate Procedure 2 to suspend the proof of service requirement and proceed to the merits of Appellant's motions. *See* TEX. R. APP. P. 2.

We deny Appellant's second motion for disqualification and/or recusal; being filed after our July 30 opinion, it is untimely. *See* TEX. R. APP. P. 16.3(a).

Appellant's motion for extension to file motion for rehearing is granted. Appellant's motion for rehearing is denied.

PER CURIAM

Before Chief Justice Gray,  
Justice Vance, and  
Justice Reyna  
(Chief Justice Gray not participating)  
Motion for extension granted;  
Motions for disqualification/recusal and rehearing denied  
Order issued and filed September 17, 2008  
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