

**Dismissed and Opinion filed October 26, 2000.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-00-01204-CV**  
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**LAW FIRM OF JAMES OKORAFOR & ASSOCIATES, P.C. and JAMES  
OKORAFOR, Individually, Appellants**

**V.**

**BANK ONE, TEXAS, N.A., Appellee**

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**On Appeal from the County Civil Court at Law No. 1  
Harris County, Texas  
Trial Court Cause No. 721,574**

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**O P I N I O N**

This is an attempted appeal from a summary judgment signed May 11, 2000. Appellants filed a Motion for Reconsideration, which was denied on July 6, 2000. Appellants filed a Request for Findings of Fact and Conclusions of Law on July 22, 2000, which did not operate to further extend the appellate timetable. *See IKB Industries, Ltd. v. Pro-Line Corp.*, 938 S.W.2d 440, 441 (Tex. 1997).

When appellant has filed a timely motion for new trial, motion to modify the judgment, motion to reinstate, or a request for findings of fact and conclusions of law, the notice of appeal must be filed within ninety days after the date the judgment is signed. *See* TEX. R. APP. P. 26.1(a). Accordingly, appellants'

notice of appeal was due to be filed on or before August 9, 2000. Appellants' notice of appeal was not filed until September 25, 2000, however.

Appellants' 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 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). However, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. See TEX. R. APP. P. 26.3, 10.5(b)(1)(C); *Verburgt*, 959 S.W.2d at 617-18. Appellants' notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

On September 29, 2000, appellee filed a motion to dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). Appellants filed an untimely response on October 23, 2000, which fails to demonstrate that this Court has jurisdiction. Appellants assert they did not receive notice of the judgment until September 16, 2000. The record in this court, however, fails to demonstrate that appellants followed the proper procedure to extend the time to file the notice of appeal when a party has not received notice of the signing of the judgment within 20 days after its signing. *See* TEX. R. CIV. P. 306a(5); TEX. R. APP. P. 4.2.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed October 26, 2000.

Panel consists of Chief Justice Murphy, Justices Amidei and Hudson.

Do Not Publish — TEX. R. APP. P. 47.3(b).