

DISMISS; and Opinion Filed March 13, 2017.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00041-CV

**ROBERT DUCHOUQUETTE AND MICHELLE DUCHOUQUETTE, Appellants
V.
KALLE MCWHORTER AND PRESTIGIOUS PETS, LLC, Appellees**

**On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-16-03561**

MEMORANDUM OPINION

Before Justices Bridges, Myers, and Brown
Opinion by Justice Brown

Appellants appeal from a December 9, 2016 order awarding costs and sanctions in accordance with a chapter 27 motion to dismiss. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.003 (West 2015). An appeal from such an order follows an accelerated timetable. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.008(b) (West 2015). Accordingly, appellants' notice of appeal was due on December 29, 2016, twenty days after the date the order was signed. *See* TEX. R. APP. P. 26.1(b). Appellants filed their notice of appeal on January 9, 2017, eleven days past the deadline but within the fifteen-day grace period. *See* Tex. R. App. P. 26.3. Without a timely notice of appeal, this Court lacks jurisdiction. *See* TEX. R. APP. P. 25.1(b).

By letter dated January 26, 2017, the Court informed appellants that they could remedy the timeliness problem by filing, by February 6, 2017, a motion for extension of time to file the notice of appeal. *See id.* We cautioned appellants that failure to file an extension motion by the

specified date may result in dismissal of the appeal for want of jurisdiction without further notice. As of today's date, appellants have not filed an extension motion. Appellees filed a notice of cross-appeal on January 17, 2017. However, the Court does not have jurisdiction over a cross-appeal where the original notice of appeal is untimely. *See* TEX. R. APP. P. 26.1(d); *Portfolio Furnishings, Inc. v. Fidelity Funding, Inc.*, No. 05-02-00846-CV, 2002 WL 1587205, at *1 (Tex. App.—Dallas July 19, 2002, no pet.) (mem. op.).

Because appellants' notice of appeal is untimely, we dismiss this appeal in its entirety for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Ada Brown/

ADA BROWN
JUSTICE

170041F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ROBERT DUCHOUQUETTE AND
MICHELLE DUCHOUQUETTE,
Appellants

No. 05-17-00041-CV V.

On Appeal from the 160th Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-16-03561.
Opinion delivered by Justice Brown. Justices
Bridges and Myers participating.

KALLE MCWHORTER AND
PRESTIGIOUS PETS, LLC, Appellees

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellees KALLE MCWHORTER AND PRESTIGIOUS PETS, LLC recover their costs of this appeal from appellants ROBERT DUCHOUQUETTE AND MICHELLE DUCHOUQUETTE.

Judgment entered this 13th day of March, 2017.