

COURT OF APPEALS OF TEXAS, FOURTEENTH COURT OF APPEALS

Woods MFI, LLC v. PlainsCapital Bank

No. 14-16-00785-CV · No. No. 14-16-00785-CV · Decided January 5, 2017

SUMMARY

The Fourteenth Court of Appeals ordered Woods MFI, LLC to file a motion explaining its late notice of appeal. The court noted that the notice was filed within 15 days after the deadline, permitting an implied extension request, but warned that failure to comply would result in dismissal.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth Court of Appeals
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	January 5, 2017
DOCKET	No. 14-16-00785-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appellate order directing the appellant to file a motion to extend the deadline for filing its notice of appeal.
PRECEDENTIAL VALUE	unknown
PARTIES	Woods MFI, LLC v. PlainsCapital Bank

TOPICS

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PRACTICE AREAS

[appellate procedure](#) [civil procedure](#) [commercial litigation](#)

QUESTIONS PRESENTED

1. Whether the late notice of appeal, filed within fifteen days after the due date, permits an implied motion for extension under Texas appellate procedure.
2. Whether the appellant must provide a reasonable explanation supporting the late filing and must be ordered to file a proper motion for extension.

HOLDINGS

1. When a perfecting instrument is filed within fifteen days after its due date, a motion for extension of time is necessarily implied, but the appellant remains obligated to provide a reasonable explanation for the late filing.

KEY QUOTATIONS

“A motion for extension of time is necessarily implied when the perfecting instrument is filed within 15 days of its due date.” (2)

“While an extension may be implied, appellant is still obligated to come forward with a reasonable explanation to support the late filing.” (2)

FACTUAL BACKGROUND

The trial court signed a judgment on June 21, 2016. Woods MFI timely filed a post-judgment motion, making its notice of appeal due September 19, 2016, but it filed the notice on September 28, 2016, within fifteen days after the deadline.

PROCEDURAL HISTORY

The appeal arose from a judgment signed by the 129th District Court of Harris County on June 21, 2016. After timely filing a post-judgment motion, Woods MFI's notice of appeal was due September 19, 2016, but was filed September 28, 2016. The court ordered Woods MFI to file a motion to extend time and stated that the appeal would be dismissed if it failed to comply.

DISPOSITION

other

CASES CITED

- *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)
- *Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.)

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