

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAMILLE FAU; NICOLE FAU; AND
FRANCESCA FAU,

Appellants,

vs.

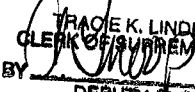
THE POWER COMPANY, INC., D/B/A
CRAZY HORSE TOO; PAUL LUCA;
DARRIN BRUY; AND MICHAEL
MUSCATO,

Respondents.

No. 50526

FILED

SEP 23 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment on a jury verdict and amended judgment on a jury verdict in a wrongful death action. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

Respondents have filed a motion to dismiss this appeal as untimely. In their motion, respondents point out that notices of entry of the district court's January 17, 2003, judgment on the jury verdict and January 28, 2003, amended judgment on the jury verdict were served on appellant by respondents' counsel via U.S. mail on January 23, 2003, and January 31, 2003, respectively. Because service of the notices of entry was by mail, appellants had 33 days from the date of service to file their notice of appeal.¹ Therefore, under the most generous application of our appellate rules, appellants' notice of appeal was due to be filed in the district court on or before March 5, 2003. However, appellants did not file

¹See NRAP 4(a)(1) and 26(c).

their notice of appeal until November 7, 2007, more than 4 years after the period for filing a notice of appeal had expired.

Appellants oppose the motion to dismiss this appeal. Although they agree with the factual assertions in respondents' motion, appellants "seek to avail themselves of a clerical mistake and thereby excuse their delay in taking this appeal." Appellants' counsel explains that he was retained to represent appellants shortly before this appeal was filed, and relied upon the Eighth Judicial District Court's website in determining the status of the case. Counsel asserts that the district court's website incorrectly indicated that "the case was still in trial and the file was therefore unavailable."

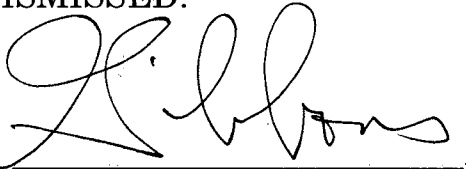
The time to file a notice of appeal in a civil case begins to run upon service of written notice of entry of the judgment or order appealed from.² Such written notice "provide[s] appellants with actual notice that a written order [resolving] their complaint . . . ha[s] been entered."³ Appellants do not dispute that their prior counsel was properly served with the notices of entry in January 2003 and that they thus has actual notice of the entry of judgment in this matter. Nothing in our jurisprudence tolls the time for filing a notice of appeal because unofficial information on a court's website is incorrect, or because newly retained counsel is unaware of a case's status. Therefore, appellants' notice of appeal was untimely, and an untimely notice of appeal fails to vest

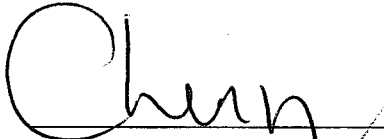
²NRAP 4(a)(1).

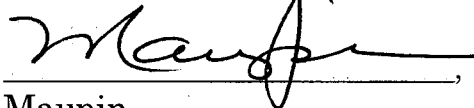
³Healy v. Volkswagenwerk, 103 Nev. 329, 330, 741 P.2d 432, 433 (1987).

jurisdiction in this court.⁴ Accordingly, as we lack jurisdiction to consider this appeal, we grant respondents' motion to dismiss and we

ORDER this appeal DISMISSED.⁵


_____, C. J.
Gibbons


_____, J.
Cherry


_____, J.
Maupin

cc: Eighth Judicial District Court Dept. 18, District Judge
Travis E. Shetler
Stephenson & Dickinson
Eighth District Court Clerk

⁴See NRAP 4(a)(1); Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983).

⁵Appellants' motion for an extension of time to file the docketing statement is denied as moot. The clerk shall return the docketing statement received on March 10, 2008, unfiled, to appellants' counsel