

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 17, 2013

Elisabeth A. Shumaker
Clerk of Court

CHAO HO LIN; LEE MO LIN,

Plaintiffs - Appellants,

v.

CHI CHU WU,

Defendant - Appellee.

No. 13-7021
(D.C. No. 6:11-CV-00301-JHP)

ORDER

Before **KELLY**, **TYMKOVICH**, and **HOLMES**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed out-of-time.

The order denying the plaintiffs' post-judgment motion was entered on February 26, 2013, and the notice of appeal was not filed until March 29, 2013, thirty-one days later.

In a civil case, in which the United States is not a party, a notice of appeal must be filed within 30 days of entry of the order being appealed. *See* 28 U.S.C. § 2107(a) (a notice of appeal in a civil matter must be filed within 30 days of entry of judgment); Fed. R. App. P. 4(a)(1)(A) (same); Fed. R. App. P. 4(a)(4)(A) (time to appeal begins to run after the district court finally adjudicates timely-filed motion to reconsider). A timely

notice of appeal in a civil case is both mandatory and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205, 209, 213 (2007).

Because the notice of appeal was filed late, this court lacks jurisdiction. The plaintiffs' motion for extension of time is denied as moot. **APPEAL DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

by: Ellen Rich Reiter
Jurisdictional Attorney