Natasha Breaux, Ryan Gardner, Ryan Pitts in The Appellate Advocate: 'Fifth Circuit Update'

By Natasha Breaux, Ryan Pitts | March 17, 2021

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***Appellate Procedure Edwards v. 4JLJ*, L.L.C., 976 F.3d 463 (5th Cir. 2020)**

This case was tried before a jury, which returned a verdict for the defendant. After the jury verdict, the plaintiffs filed a motion for judgment as a matter of law or alternatively a new trial on March 12, 2020. Without addressing that motion, the district court entered final judgment on March 27. That operated as an implicit denial of the motion. The plaintiffs then refiled an identical motion on April 10, which the district court denied. The plaintiffs filed a notice of appeal on June 12.

The Fifth Circuit dismissed the appeal for lack of jurisdiction because the notice of appeal was not timely filed. The timely filing of a notice of appeal in a civil case is a jurisdictional requirement. Usually the notice of appeal must be filed within 30 days of the entry of the judgment or order being appealed, but certain motions delay the appeal deadline. But after a motion is denied, a second one based on the same ground will not further delay the appeal deadline.

Here, the deadline for filing the notice of appeal was 30 days after the entry of judgment. The plaintiffs did not appeal by the deadline. Because the second motion for judgment as a matter of law was identical to the first, it did not extend the deadline. Thus, the Fifth Circuit lacked jurisdiction.

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