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COURT

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CIVIL DIVISION

Case No. 25-CV-02384

Lucien Choiniere v. MR. ANDREW SHELDON et al

DISMISSAL

Plaintiff has filed an untimely appeal from a decision rendered by the Windsor County Superior Court's Small Claims Division. Plaintiff initially filed his complaint on July 11, 2024, and the matter was docketed as *Choiniere v. Sheldon*, Dckt. No. 24-SC-1074. The Court held a trial on January 13, 2025, and it took evidence and testimony from the parties and witnesses. On January 14, 2025, the Court rendered a decision on the merits in favor of Defendants.

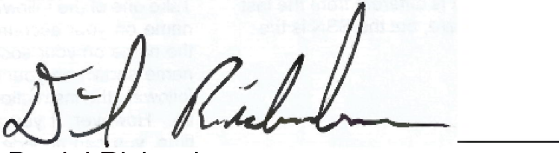
Under Rule 10(a) of the Rules of Small Claims Court Procedure, a party has 30 days from the entry of a judgment to file a notice of appeal. In this case, Plaintiff's time to take an appeal under Rule 10(a) expired on February 13, 2025. On April 7, 2025, Plaintiff sought permission to reopen the time to file an appeal. The Small Claims Division granted that motion on May 19, 2025, pursuant to its analysis of V.R.S.C.P. 10(a)(1) and V.R.A.P. 4(c), and it gave Plaintiff until June 2, 2025 to file his notice of appeal in a manner consistent with the requirements under Rule 10 for filing a small claims court appeal.

Plaintiff did not file his notice of appeal until July 2, 2025, more than 30 days after the Court's extended deadline.

The rules concerning deadlines for filing appeals are not discretionary, and they do not allow waiver. *In re Town of Killington*, 2005 VT 87A, ¶¶ 14, 16. In this case, there is no showing of excusable neglect or justification that would permit Plaintiff to obtain what would be a second extension of time to file his appeal. The appeal is untimely. As such, the Court cannot look to the merits of Plaintiff's appeal. It must be dismissed as the Court lacks jurisdiction to take up this appeal. *State v. Cichowski*, 153 Vt. 650, 650 (1989) (mem.).

Based on this untimely appeal, and the Court's lack of jurisdiction, the present appeal is **Dismissed**.

Electronically signed on 7/8/2025 3:42 PM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge

Vermont Superior Court
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Windsor Unit