

Danny SNOWDEN v. Joe T. BENTON, III,  
Russell A. Benton and Mountain Pine Timber, Inc.

CA 94-513

896 S.W.2d 451

Court of Appeals of Arkansas  
Division I  
Opinion delivered April 12, 1995

1. APPEAL & ERROR — NOTICE OF APPEAL FILED PRIOR TO THE DISPOSITION OF POST-TRIAL MOTION — WHEN NEW NOTICE OF APPEAL MUST BE FILED. — A notice of appeal filed prior to the disposition of a motion for a new trial is without effect under Ark. R. App. P. 4(c); when such a post-trial motion has been filed, a new notice of appeal must be filed within the prescribed time from the entry of the order dealing with the post-trial motion or from the expiration of the thirty days allowed in the absence of a ruling.
2. APPEAL & ERROR — NOTICE OF APPEAL FILED BEFORE THE EXPIRATION OF THE THIRTY-DAY PERIOD — APPEAL DISMISSED. — Where the appellant's notice of appeal was filed before the expiration of the thirty-day period following the filing of his motion for a new trial, it was without effect under Rule 4(c), and the appeal was dismissed.

Appeal from Faulkner Circuit Court; *Watson Villines*, Judge; appeal dismissed.

*M. Edward Morgan*, for appellant.

*Graddy & Adkisson, P.A.*, by: *Larry E. Graddy*, for appellees.

JAMES R. COOPER, Judge. The appellant in this civil case sought an appeal from an order of the Faulkner County Circuit Court entered December 20, 1993. The appellant filed a motion for a new trial on December 22, 1993. No ruling was ever made on the new trial motion. The appellant filed a notice of appeal on January 20, 1994, from the circuit court's order of December 20, 1993. We are constrained to dismiss this appeal because the notice of appeal was untimely.

[1, 2] A notice of appeal filed prior to the disposition of a motion for a new trial is without effect under Ark. R. App. P. 4(c). The Rule provides that, when such a post-trial motion has been filed, a new notice of appeal must be filed within the prescribed time from the entry of the order dealing with the post-

trial motion or from the expiration of the thirty days allowed in the absence of a ruling. *Lawrence Brothers, Inc. v. R.J. "Bob" Jones Excavating Contractor, Inc.*, 318 Ark. 328, 884 S.W.2d 620 (1994). Because the appellant's notice of appeal was filed before the expiration of the thirty-day period, it was without effect under Rule 4(c) and we must dismiss the appeal.

Appeal dismissed.

PITTMAN and ROBBINS, JJ., agree.

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