

deadline lapsed long ago, and no further opportunity remains for Allstate to challenge the Ninth District's decision. The failure to comply with Sup. Ct. Prac. R. 2.2 precludes this Court from entertaining Allstate's belated demands for further review. *State ex rel. Martin v. Ohio Adult Parole Auth.*, 124 Ohio St.3d 63, 2009-Ohio-6164, 918 N.E.2d 1005; *Groves v. Mallory*, 125 Ohio St.3d 160, 2010-Ohio-1805, 926 N.E.2d 645. It is well settled that a party who has not filed a proper notice of appeal cannot be heard in this Court even if another party complies with the jurisdictional requirement. See e.g., *Village of South Russell v. Budget Comm'n of Geauga County* (1984), 12 Ohio St.3d 126, 127, 465 N.E.2d 876, 878.

No exceptions should be fashioned for Allstate in this instance. After all, the insurer's sole justification for denying underinsured motorist benefits to Plaintiffs in this action is their purported failure to comply with a three year time-to-sue clause. Given that the "Good Hands People" have refused to extend any leniency to their own insureds in this respect, they are hardly in a position to expect an accommodation from this Court. The requirement of a timely Notice of Appeal is jurisdictional and cannot be waived. *State v. Davie*, 74 Ohio St.3d 232, 233, 1996-Ohio-274, 658 N.E.2d 271, 272.

CONCLUSION

Since Allstate is not an appellant in these proceedings as a result of its failure to file a timely Notice of Appeal in accordance with Sup. Ct. Prac. R. 2.2(A), the Merit Brief and Supplement that were filed on January 3, 2011 should be stricken.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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U.S. Mail on this 22nd day of February, 2011 upon:

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