

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

THE LAKE SKI I-80, INC.,	:	MEMORANDUM OPINION
Plaintiff-Appellee/ Cross-Appellant,	:	
- VS -	:	CASE NO. 2015-T-0002
WALTER HABOWSKI, et al.,	:	
Defendant-Appellant/ Cross-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2013 CV 01340.

Judgment: Cross-appeal dismissed.

Thomas C. Nader, Nader & Nader, 5000 East Market Street, #33, Warren, OH 44484
(For Plaintiff-Appellee/Cross-Appellant).

Ronald J. Habowski, Christley, Herington & Pierce, 215 West Garfield Road, #230,
Aurora, OH 44202 (For Defendant-Appellant/Cross-Appellee).

COLLEEN MARY O'TOOLE, J.

{¶1} On January 15, 2015, appellant/cross-appellee, Walter Habowski, filed a notice of appeal from a December 18, 2014 entry of the Trumbull County Court of Common Pleas. Appellee/cross-appellant, The Lake Ski I-80, Inc., filed a cross-appeal on January 28, 2015.

{¶2} App.R. 4(B)(1) states that “[i]f a notice of appeal is timely filed by a party, another party may file a notice of appeal within the appeal time period otherwise prescribed by this rule or within ten days of the filing of the first notice of appeal.”

{¶3} Under App.R. 4(B)(1), Lake Ski had the option of filing its cross-appeal within ten days of appellant filing his notice of appeal, or the traditional thirty-day window created by App.R. 4(A). Thus, pursuant to the foregoing rules, the latest that Lake Ski could have filed its cross-appeal was January 26, 2015. The record in this matter indicates that Lake Ski filed its cross-appeal with this court on January 28, 2015, two days beyond the required time limit of App.R. 4(B)(1).

{¶4} The time requirements for filing a cross-appeal pursuant to App.R. 4 are mandatory and jurisdictional. *Kaplysh v. Takieddine*, 35 Ohio St.3d 170 (1988) . See also, *Miller v. Miller*, 11th Dist. Trumbull No. 2009-T-0061, 2009-Ohio-4455, at ¶2. As a result, this court cannot address the merits of Lake Ski’s untimely cross-appeal as it lacks jurisdiction under App.R. 4.

{¶5} Based upon the foregoing analysis, the cross-appeal is hereby, sua sponte, dismissed for untimeliness. However, the appeal filed by appellant may proceed.

{¶6} Cross-appeal dismissed.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.