

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

MELISSA REEVES,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee/ Cross-Appellant,	:	CASE NO. 2009-G-2911
	:	
- vs -	:	
	:	
MICHAEL P. HURLEY, SUCCESSOR ADMINISTRATOR W.W.A. OF THE ESTATE OF BETTY JEAN DiCILLO, et al.,	:	
	:	
Defendants-Appellants/ Cross-Appellees,	:	
	:	
GAYLA AMATO,	:	
	:	
Defendant-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 07 M 000536.

Judgment: Cross-appeal dismissed.

Pearce A. Leary, 401 South Street, Bldg. 4-A, Chardon, OH 44024 (For Plaintiff-Appellee/Cross-Appellant).

Michael P. Hurley, Nelson, Sweet & Hurley, 8 North State Street, #201, Painesville, OH 44077-3955 (For Defendant-Appellant/Cross-Appellee, Michael P. Hurley, Successor Administrator W.W.A. of the Estate of Betty Jean DiCillo).

Michael C. Lucas, Wiles & Richards, 35000 Kaiser Court, #306, Willoughby, OH 44904 (For Defendants-Appellants/Cross-Appellees, Amy Z. Vitt, Administratrix of the Estate of Nicholas A. Vitt, Deceased and Amy Vitt).

Richard A. Hennig, Baker, Hackenberg and Hennig Co., L.P.A., 100 Society National Bank Building, 77 North St. Clair Street, Painesville, OH 44077 (For Defendant-Appellee, Gayla Amato).

MARY JANE TRAPP, P.J.

{¶1} On July 15, 2009, appellants/cross-appellees, Michael P. Hurley, Successor Administrator W.W.A. of the Estate of Betty Jean DiCillo, Amy Z. Vitt, Administratrix of the Estate of Nicholas A. Vitt, Deceased, and Amy Vitt, filed a notice of appeal from a June 16, 2009 entry from the Geauga County Court of Common Pleas. Appellee/cross-appellant, Melissa Reeves, filed her cross-appeal on July 20, 2009. Appellee, Gayla Amato, filed her cross-appeal on August 3, 2009.

{¶2} Under App.R. 4(B)(1), Ms. Amato had the option of filing her cross-appeal within ten days of appellants filing their notice of appeal, or the traditional thirty-day window created by App.R. 4(A). Pursuant to the foregoing rules, the latest that Ms. Amato could have filed her cross-appeal was July 27, 2009. The record in this matter indicates that Ms. Amato filed her cross-appeal with this court on August 3, 2009, seven days beyond the required time limit of App.R. 4(B)(1). The time requirements for filing a cross-appeal pursuant to App.R. 4(A) are mandatory and jurisdictional. *Kaplysh v. Takieddine* (1988), 35 Ohio St.3d 170. See, also, *Kirkhart v. Keiper*, 11th Dist. No. 2001-P-0069, 2002-Ohio-6472, at ¶2. As a result, this court cannot address the merits of Ms. Amato's untimely cross-appeal as it lacks jurisdiction under App.R. 4(A).

{¶3} Based upon the foregoing analysis, Ms. Amato's cross-appeal is hereby, sua sponte, dismissed for untimeliness. However, the appeal filed by appellants and the cross-appeal filed by Ms. Reeves can proceed.

{¶4} Ms. Amato's cross-appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,
COLLEEN MARY O'TOOLE, J.,
concur.