

December 18, 2008

UNITED STATES COURT OF APPEALS Elisabeth A. Shumaker
FOR THE TENTH CIRCUIT Clerk of Court

VACATION TRAVEL
INTERNATIONAL, INC.,

Plaintiff - Appellant,

v.

SUNCHASE BEACHFRONT
CONDOMINIUM OWNERS
ASSOCIATION, INC., a foreign
corporation,

Defendant - Appellee.

No. 08-1357
(D.C. No. 1:06-CV-2195-LTB-CBS)
(D. Colorado)

ORDER

Before **BRISCOE**, **LUCERO**, and **HOLMES**, Circuit Judges.

In an order entered June 18, 2008, the district court granted Defendant Sunchase Beachfront Condominium Owners Association's motion for summary judgment. And in an order entered August 27, 2008, the district court denied Plaintiff Vacation Travel International's timely motion under Fed. R. Civ. P. 59(e). Plaintiff appeals.

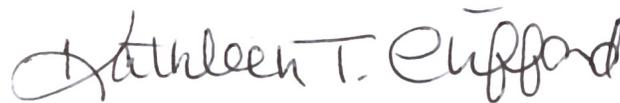
This appeal is jurisdictionally defective. The thirty-day deadline under Fed. R. App. P. 4(a)(1)(A) for the filing of a timely notice of appeal in this case expired on September 26, 2008. Plaintiff's notice of appeal was filed on September 30, 2008, which

was four days past the deadline. Although Plaintiff did file a timely Fed. R. App. P. 4(a)(5) motion for extension of time, the district court denied the motion an order entered November 5, 2008.

The time limit for filing a notice of appeal in a civil case is “mandatory and jurisdictional.” *Bowles v. Russell*, 127 S.Ct. 2360, 2363 (2007). Plaintiff’s notice of appeal is untimely.

Defendant’s motion to lift abeyance is **GRANTED**. Defendant’s motion to dismiss is **GRANTED**. The appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in black ink that reads "Kathleen T. Clifford". The signature is written in a cursive, flowing style.

Kathleen T. Clifford
Attorney - Deputy Clerk