

September 30, 2009

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

JOSEPH A. HUGHES, JR.,

Plaintiff - Appellant,

v.

SIERRA PROPANE, INC.; MOUNTAIN
PROPANE, LLC; STATE OF NEW
MEXICO; BILL RICHARDSON,
Governor; GARY KING, Attorney
General; LLC MOUNTAIN PROPANE,

Defendants - Appellees.

No. 09-2179
(D.C. No. 2:08-CV-00663-RHS-CG)
(D. New Mexico)

ORDER

Before **HARTZ, TYMKOVICH,** and **HOLMES,** Circuit Judges.

Pursuant to 28 U.S.C. § 636(c), a United States Magistrate Judge entered a final order in the underlying district court action on May 21, 2009 disposing of all of Plaintiff Joseph Hughes' claims for relief. Plaintiff, proceeding *pro se*, appeals. We dismiss for lack of jurisdiction.

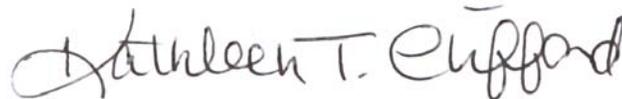
Pro se appellants must comply with the requirements of the Federal Rules of Appellate Procedure that govern all litigants. *See Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994). Under Fed. R. App. P. 4(a)(1)(A), the thirty-day deadline for filing

a timely notice of appeal in this case as to the magistrate judge's May 21, 2009 Order expired on Monday, June 22, 2009. *See* Fed. R. App. P. 26(a)(3). Plaintiff filed his notice of appeal on July 27, 2009, which was thirty-five days past the thirty-day filing deadline. The magistrate judge denied Plaintiff's motion under Fed. R. App. P. 4(a)(5)(A) for extension of time to file an appeal. And this court may not extend the time for filing an appeal. *See Brumark Corp. v. Samson Resources Corp.*, 57 F.3d 941, 949 (10th Cir. 1995).

Compliance with filing requirements is "mandatory and jurisdictional." *Bowles v. Russell*, 127 S.Ct. 2360, 2363 (2007). Plaintiff's notice of appeal is untimely. The court lacks jurisdiction.

Accordingly, Appellees-Defendants' motions to dismiss are **GRANTED**. The appeal is **DISMISSED** for lack of appellate jurisdiction. The mandate shall issue forthwith.

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