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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

ELIZABETH KARNAZES,

Plaintiff and Appellant,

v.

ST. PAUL SURPLUS LINES
INSURANCE COMPANY¹ et al.,

Defendants and Respondents.

A141950

(San Francisco County
Super. Ct. No. CGC-08-483029)

Elizabeth Karnazes, in propria persona, purports to appeal from an order denying her motion to strike costs or alternatively to tax costs. She contends that the trial court abused its discretion in denying her motion to tax costs because respondents did not timely serve and file their memorandum of costs. We dismiss the appeal because Karnazes's notice of appeal is untimely.

On August 23, 2013, the court entered a judgment in favor of respondents on Karnazes's third amended complaint in which she sought tort damages alleging that respondents failed to honor her lien on certain settlement proceeds. On August 28, 2013, respondents filed a notice of entry of judgment.

On August 30, 2013, respondents served a memorandum of costs on Karnazes seeking \$3,660 for filing, motion, and court reporter fees. They filed the memorandum of costs in the trial court on September 3, 2013.

¹ St. Paul Surplus Lines Insurance Company was erroneously sued as Saint Paul Travelers Insurance.

On September 23, 2013, Karnazes filed a motion to tax costs, arguing that she was never served with the memorandum of costs and that it was untimely filed. Respondents opposed the motion, contending that their memorandum of costs was timely served and filed within the 15-day period after service of the notice of entry of judgment as required by California Rules of Court, rule 3.1700(a)(1). They also disputed Karnazes's claim that she had not been timely served.

On December 2, 2013, the trial court denied Karnazes's motion. On December 3, 2013, respondents served Karnazes with a notice of entry of the order denying the motion to tax costs. On May 12, 2014, Karnazes filed a notice of appeal from the December 2, 2013 order denying her motion to tax costs, and from a March 11, 2014 order denying her motion to strike costs with respect to respondent John J. Hartford. On December 5, 2014, this court granted Karnazes's request to dismiss the appeal from the March 11, 2014 order.

Karnazes's notice of appeal from the December 3, 2013 order is untimely. Respondents served a notice of entry of the order denying Karnazes's motion to tax costs on Karnazes on December 3, 2013. Pursuant to California Rules of Court, rule 8.104(a)(1)(B), Karnazes was required to file her notice of appeal on or before the earliest of "60 days after the party filing the notice of appeal . . . is served by a party with a document entitled 'Notice of Entry' of judgment or a file-stamped copy of the judgment, accompanied by proof of service" Her notice of appeal, filed over five months after service of the notice of entry, is untimely.

"The time for appealing a judgment is jurisdictional; once the deadline expires, the appellate court has no power to entertain the appeal." (*Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56.) " 'If it appears that the appeal was not taken within the 60-day period, the court has no discretion but must dismiss the appeal of its own motion even if no objection is made.' " (*Hollister Convalescent Hosp., Inc. v. Rico* (1975) 15 Cal.3d 660, 666–667.) As Karnazes failed to file a timely notice of appeal, this court is without jurisdiction and the appeal must be dismissed.

The appeal is dismissed.

Rivera, J.

We concur:

Ruvolo, P.J.

Reardon, J.

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