

**EKER BROS., INC. V. REHDERS**

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**EKER BROTHERS, INC.,**  
Plaintiff-Counterdefendant/  
Appellant,  
**v.**  
**JOHN G. REHDERS,**  
**GENERAL CONTRACTOR, INC.,**  
Defendant-Counterclaimant/  
Appellee.

NO. 30,163

COURT OF APPEALS OF NEW MEXICO

May 17, 2010

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY, Daniel A. Sanchez,  
District Judge

**COUNSEL**

Sommer, Udall, Sutin, Hardwick, & Hyatt, P.A., William H. Lazar, Tesuque, NM,  
Sommer, Udall, Sutin, Hardwick, & Hyatt, P.A., Kurt A. Sommer, Candice Lee, Santa  
Fe, NM, for Appellant

McClagherty & Silver, P.C., Joe L. McClagherty, Tamara R. Safarik, Santa Fe, NM,  
for Appellee

**JUDGES**

CYNTHIA A. FRY, Chief Judge. WE CONCUR: JAMES J. WECHSLER, Judge, CELIA  
FOY CASTILLO, Judge

AUTHOR: CYNTHIA A. FRY

**MEMORANDUM OPINION**

**FRY, Chief Judge.**

Appellant appeals the award of costs in this case. We proposed to dismiss the appeal because the notice of appeal was not timely filed. We have received a response from Appellant in which Appellant claims that it was error for the district court to deny Appellant's motion for extension of time to file the notice of appeal, and therefore, we should not dismiss this appeal. As discussed in our opinion in *Ekers Brothers, Inc. v. John Gl. Rehders, General Contractor*, No. 30,245, we have affirmed the district court's ruling on Appellant's motion. Because the motion for extension to file the notice of appeal was properly denied, Appellant's notice of appeal was untimely.

**CONCLUSION**

For the reasons discussed in this opinion and in our calendar notice, we dismiss Appellant's appeal.

**IT IS SO ORDERED.**

**CYNTHIA A. FRY, Chief Judge**

**WE CONCUR:**

**JAMES J. WECHSLER, Judge**

**CELIA FOY CASTILLO, Judge**