

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
CARROLL COUNTY

GATEWAY ROYALTY V, LLC,

Plaintiff-Appellant,

v.

EOG OHIO, LLC f/k/a

EAP OHIO, LLC,

Defendant-Appellee.

OPINION AND JUDGMENT ENTRY

Case No. 2026-CA-00990

Civil Appeal from the
Court of Common Pleas of Carroll County, Ohio
Case No. 2025-CVH-30805

BEFORE:

John J. Eklund, Eugene A. Lucci, Robert J. Patton, Judges.
Eleventh District Court of Appeals, sitting by assignment

JUDGMENT:

Appeal dismissed.

Attys. Joshua E. O'Farrell, and J. Alex Quay, Buckingham, Doolittle & Burroughs, LLC, 4277 Munson St., Canton, OH 44718, for Plaintiff-Appellant.

Attys. Timothy B. McGranor, Gregory D. Russell, and Ilya Batikov, Vorys, Sater, Seymour and Pease LLP, 52 East Gay Street, P.O. Box 1008, Columbus, OH 43216-1008, for Defendant-Appellee.

Dated: October 13, 2026

PER CURIAM.

{¶1} This matter is before the court on defendant-appellee, EOG Ohio, LLC's ("EOG Ohio"), July 6, 2026 motion to dismiss the appeal for lack of jurisdiction. Plaintiff-appellant, Gateway Royalty V, LLC ("Gateway Royalty"), appeals from the trial court's decision granting EOG Ohio's motion for summary judgment.

{¶2} App.R. 3(A) expressly states that the only jurisdictional requirement for filing a valid appeal is to file it within the time allowed by App.R. 4. The Supreme Court of Ohio has held that the failure to comply with the time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. *In re H.F.*, 2008-Ohio-6810, ¶ 17, citing *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60 (1988).

{¶3} App.R. 4(A)(3) further provides:

In a civil case, if the clerk has not completed service of notice of the judgment within the three-day period prescribed in Civ.R. 58(B), the 30-day periods referenced in App.R. 4(A)(1) and 4(A)(2) begin to run on the date when the clerk actually completes service.

{¶4} The decision Gateway Royalty is appealing was filed on April 22, 2026. Pursuant to App.R. 4(A)(1), the notice of appeal was due "within 30 days." The clerk noted that service was completed on April 24, 2026, within the three-day period, in accordance with Civ.R. 58(B).

{¶5} Gateway Royalty, in its response in opposition to EOG Ohio's motion to dismiss, alleges that email service was improper as the clerk was required to serve the parties by regular mail based on the trial court's directive at the bottom of the entry. We disagree and find that the Clerk's electronic service satisfied Civ.R. 58 and Civ.R. 5 and was in compliance with the trial court's local rules. Carroll C.P., Gen.Div., Loc.R. 303 provides in relevant part:

After the order or entry has been signed and filed, the Clerk of Court shall serve on all pro se parties in accordance with

Civ. R. 5 and Crim. R. 49 that are not a registered user and pursuant to Civ. R. 5 (B)(2)(f), *if the person has an email on file*.

(Emphasis added.) The Clerk’s April 24, 2026 notation on the docket indicates that the parties were served electronically and that each party had an email address on file. See EOG Ohio’s Exhibit 1.¹

{¶6} Gateway Royalty further contends that service was not completed because the clerk did not include “the names and addresses of the parties.” Gateway Royalty relies on the Supreme Court of Ohio’s decision in *Clermont Cty. Transp. Improvement Dist. v. Gator Milford, L.L.C.*, 2015-Ohio-241, which held that “[t]he 30-day time period to file a notice of appeal begins upon service of notice of the judgment and notation of service on the docket by the clerk of courts regardless of actual knowledge of the judgment by the parties.” As the Supreme Court of Ohio has explained:

There is no exception to the requirement that when a trial court issues a judgment, it must also issue a directive to the clerk of courts to serve all interested parties and attorneys with that judgment. Pursuant to Civ.R. 58(B), the clerk must then indicate on the docket the names and addresses of the parties it is serving the judgment upon, the method of service, and the costs associated with the service. When these steps are followed, there is no question whether service was perfected according to rule.

Id. at ¶ 3. We note that *Gator Milford* was decided prior to the mass implementation of e-filing in the county courts.² Therefore, we find that the provision requiring the addresses of the parties as noted in *Gator Milford* is inapplicable where the clerk identifies the parties on the docket and serves the parties electronically to the email addresses provided for electronic filing in accordance with the court’s local rules. Gateway Royalty’s reliance on *In the Matter of E.S.*, 2018-Ohio-1902, ¶ 22 (4th Dist.), is equally unavailing. The Fourth Appellate District, in applying *Gator Milford*, concluded that the appellant’s notice of

1. Gateway Royalty does not argue or otherwise suggest that it did not receive the Clerk’s April 24, 2026 email.

2. See Staff Note, July 1, 2022. (“Although no firm deadline is stated in the rule by which all courts must complete arrangements for filing documents by electronic means, this should be a priority for all courts. Receiving and filing facsimile or electronic mail documents is readily and economically done, and avoids difficulty with delay in United States Postal Service mail delivery.”)

appeal was timely where the clerk filed a “Clerk's Certificate of Ordinary Mail Service or By Hand,” and the docket sheet simply stated “Clerk Serve.” Thus, the court held: “[t]he clerk did not indicate *on the docket* the names and addresses of the parties who were served, the method of service, or the costs associated with the service. We therefore consider appellant's appeal to be timely.” (Emphasis in original.) *Matter of E.S.*, at ¶ 22.

{¶7} Unlike *Matter of E.S.*, in the case sub judice, the clerk’s notation on the docket states:

I EMAILED A TIME STAMPED COPY OF THE ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT TO ATTORNEY MOLLY JOHNSON, ATTORNEY JOSHUA O'FARRELL, ATTORNEY J. ALEXANDER QUAY, ATTORNEY TIMOTHY MCGRANOR, ATTORNEY GREGORY RUSSELL AND ATTORNEY ILYA BATIKOV.

{¶8} Therefore, we conclude that the Clerk completed service when it was emailed to the parties and notated it on the docket in compliance with Civ.R. 58. That service occurred within the 3-day window. Therefore, Gateway’s notice of appeal was due on or before May 22, 2026. Gateway filed their notice of appeal on May 26, 2026. Accordingly, Gateway’s notice of appeal was filed late, and the appeal is untimely.

{¶9} As Gateway has not complied with the 30-day rule set forth in App.R. 4(A)(1), this court is without jurisdiction to consider the appeal. EOG Ohio’s motion to dismiss the appeal for lack of jurisdiction is well-taken and is hereby GRANTED.

{¶10} The appeal is DISMISSED. Costs to be assessed to Gateway Royalty.

IT IS SO ORDERED.

**JUDGE JOHN J. EKLUND,
ELEVENTH DISTRICT COURT OF APPEALS,
SITTING BY ASSIGNMENT
concur**

**JUDGE EUGENE A. LUCCI,
ELEVENTH DISTRICT COURT OF APPEALS,
SITTING BY ASSIGNMENT
concur**

**JUDGE ROBERT J. PATTON,
ELEVENTH DISTRICT COURT OF APPEALS,
SITTING BY ASSIGNMENT
concur**

NOTICE OF COUNSEL

Pursuant to App.R. 22 and 27, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the Clerk.