

IN THE COURT OF APPEALS OF IOWA

No. 9-941 / 09-0703
Filed March 10, 2010

WSH PROPERTIES, L.L.C.,
Plaintiff-Appellee,

vs.

CURT N. DANIELS and
INDIAN CREEK CORPORATION,
Defendants-Appellants.

Appeal from the Iowa District Court for Lucas County, John D. Lloyd,
Judge.

Defendants appeal the district court's denial of their third motion for new
trial. **APPEAL DISMISSED.**

Curt N. Daniels, Chariton, appellant pro se.

James E. Nervig of Brick Gentry P.C., West Des Moines, for appellee.

Considered by Sackett, C.J., and Vaitheswaran and Danilson, JJ.

VAITHESWARAN, J.

WSH, L.L.C., sued Curt Daniels and his corporation for the return of certain property. After a jury found in favor of WSH, the defendants filed a new trial motion, obtained a ruling, and filed an appeal from that ruling. The Iowa Supreme Court conditionally affirmed and remanded. See *WSH Props., L.L.C. v. Daniels*, 761 N.W.2d 45, 53 (Iowa 2008).

On remand, the defendants obtained a ruling on a second new trial motion. In that ruling, the district court stated that this motion was untimely, but gave the defendants the benefit of the doubt and proceeded to deny the motion on its merits. The defendants did not appeal this ruling. Instead, they waited almost three months and filed a third new trial motion. The district court summarily denied this motion.

We are now faced with the defendants' appeal from the denial of their third motion for new trial. WSH argues that the appeal is untimely. We agree.

"Generally, a notice of appeal from an order, judgment, or decree must be filed within thirty days from the time the judgment is entered." *In re Marriage of Okland*, 699 N.W.2d 260, 263 (Iowa 2005); accord Iowa R. App. P. 6.101(1)(b). When a timely motion for new trial is filed, this deadline is extended to thirty days "after the filing of the ruling on such motion." Iowa R. App. P. 6.101(1)(b). However, "[a] party should not be able to extend the time for appeal indefinitely by filing successive motions that address the same issue, even if the party is able to articulate a new argument in support of her position." *Boughton v. McAllister*, 576 N.W.2d 94, 96 (Iowa 1998). This is precisely what the defendants attempted to do.

We conclude the defendants' third new trial motion did not extend the time for filing an appeal. Therefore, their present appeal is untimely. See *Doland v. Boone County*, 376 N.W.2d 870, 876 (Iowa 1985). Accordingly, we dismiss the appeal.

APPEAL DISMISSED.