

Court of Appeals of the State of Georgia

ATLANTA, April 29, 2026

The Court of Appeals hereby passes the following order:

A26A1641. SANDRA CAPOUCH v. HEALTH UNLIMITED, INC. et al.

Plaintiff Sandra Capouch filed this action, alleging that defendants Richard Kraus and Health Unlimited, Inc. breached an oral contract by firing her from her employment. On October 29, 2025, the trial court granted defendants' motion to open default and motion to dismiss the complaint. On December 2, 2025, Capouch filed a notice of appeal.¹ We lack jurisdiction.

A notice of appeal must be filed within 30 days of entry of the judgment or trial court order sought to be appealed. OCGA § 5-6-38(a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. *Ebeling v. State*, 355 Ga. App. 469, 469 (844 SE2d 518) (2020). Because Capouch's notice of appeal was filed 34 days after entry of the trial court's order, it is untimely.

¹ This Court relies on the clerk's endorsement as the filing date. See *Lavan v. Philips*, 184 Ga. App. 573, 574 (362 SE2d 138) (1987); *Brinson v. Georgia R. Bank & Trust Co.*, 45 Ga. App. 459, 461 (165 SE 321) (1932) (the best evidence of filing is the trial court clerk's entry). Any challenge regarding that filing date must be made in the trial court. See *Lavan*, 184 Ga. App. at 574 (discussing challenge to filing date); *McDaniel v. Columbus Fertilizer Co.*, 109 Ga. 284, 285 (34 SE 598) (1899) (the filing date must be established as a matter of record).

Accordingly, this appeal is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/29/2026

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Christina Bailey Smith

, Clerk.