

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

**Shirley Williams et al.,**

**Plaintiffs,**

**v.**

**Case No. 03-2200-JWL**

**Sprint/United Management Company,**

**Defendant.**

**MEMORANDUM & ORDER**

This matter is presently before the court on remand from the Tenth Circuit Court of Appeals for further proceedings consistent with the Circuit's order vacating this court's order that had denied Ms. Harvey-Burgin an extension of time to file an appeal.

Ms. Harvey-Burgin sought an extension of time to file an appeal relating to the court's September 11, 2007 Order of Final Approval of Settlement and the court denied that motion as untimely. As indicated by the Circuit, however, because the court did not enter a separate Rule 58 judgment, the time to appeal did not begin to run until 150 days after entry of the order. *See* Fed. R. Civ. P. 58(c)(2)(B). In this case, then, the time to file an appeal did not begin to run until February 8, 2008 and, thus, the time to file an appeal had not yet expired when Ms. Harvey-Burgin filed her motion for an extension of time to file an appeal on January 28, 2008. The court then should not have concluded that the motion was untimely and, instead, should have reached the merits of the motion.

With respect to the merits of the motion, the court, if it had not incorrectly concluded that the motion was untimely, would have denied the motion as moot because no extension of time was necessary as the time to file an appeal had not yet expired. Ms. Harvey-Burgin, then, would have been permitted to file her notice of appeal at that time. Because the court's order precluded her from filing a timely appeal at that juncture, Ms. Harvey-Burgin is entitled to file a timely appeal now that the Circuit has vacated the court's order. Thus, the court now grants Ms. Harvey-Burgin's motion for an extension (doc. 4668) of time up to and including July 21, 2008, the date on which Ms. Harvey-Burgin filed her notice of appeal concerning the court's September 11, 2007 order.

**IT IS THEREFORE ORDERED BY THE COURT THAT** Ms. Harvey-Burgin's motion for an extension of time to file an appeal (doc. 4668) is **granted**.

**IT IS SO ORDERED.**

Dated this 25<sup>th</sup> day of July, 2008, at Kansas City, Kansas.

s/ John W. Lungstrum  
John W. Lungstrum  
United States District Judge