

**Dismiss and Opinion Filed September 29, 2015.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

---

**No. 05-15-00644-CV**

---

**JOHN YI, Appellant**

**V.**

**BONG KO, Appellee**

---

**On Appeal from the 101st Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DC-13-10821-E**

---

**MEMORANDUM OPINION**

Before Justices Lang, Evans, and Whitehill  
Opinion by Justice Evans

Subject to a few mostly statutory exceptions, we have jurisdiction only over appeals from final judgments and orders, that is, judgments and orders disposing of all parties and claims. *Lehman v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). The judgment and order appellant appeals, a default judgment and order denying appellant's sworn motion for new trial and to set aside the default judgment, dispose only of appellee's claims against appellant and not appellee's claims against two other parties. Although appellee filed a notice nonsuiting the two other parties after obtaining the default judgment, the trial court did not sign an order of nonsuit. *See Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex. 1995) (per curiam) ("When a judgment is interlocutory because unadjudicated parties or claims remain before the court, and when one

moves to have such unadjudicated claims or parties removed by severance, dismissal, or nonsuit, the appellate timetable runs from the signing of a judgment or order disposing of those claims or parties.”).

Because it appeared no final judgment existed, we directed the parties to file letter briefs addressing our jurisdiction. In his brief, appellant agrees no final judgment exists. Appellee, however, noting the trial court closed the case and cancelled the trial setting upon the filing of the notice of nonsuit, asserts all parties and claims were disposed by the combination of the default judgment, notice of nonsuit, and trial court’s closure of the case. We are unpersuaded by appellee’s arguments. *See Farmer*, 907 S.W.2d at 496; *see also Park Place Hosp. v. Estate of Milo*, 909 S.W.2d 508, 510 (Tex. 1999) (although notice of nonsuit filed, appellate timetable not triggered until trial court signed written order of dismissal). Accordingly, we dismiss the appeal. TEX. R. APP. P. 42.3(a), 43.2(f).

150644F.P05

/David W. Evans/  
\_\_\_\_\_  
DAVID EVANS  
JUSTICE



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

JOHN YI, Appellant

No. 05-15-00644-CV      V.

BONG KO, Appellee

On Appeal from the 101st Judicial District  
Court, Dallas County, Texas

Trial Court Cause No. DC-13-10821-E.

Opinion delivered by Justice Evans. Justices  
Lang and Whitehill participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** that appellee Bong Ko recover his costs, if any, of this appeal from appellant John Yi.

Judgment entered this 29th day of September, 2015.