

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-09-00193-CV

STERLING PAUL KELONE, Appellant/Cross-Appellee

V.

PATRICIA BOOTHE, Appellee/Cross-Appellant

**On Appeal from the 75th District Court
Liberty County, Texas
Trial Cause No. CV 69,022**

MEMORANDUM OPINION

On May 4, 2009, Sterling Paul Kelone filed notice of appeal of a judgment signed on March 5, 2009. On May 8, 2009, Patricia Boothe filed notice of appeal from the same judgment. A motion for new trial was filed on March 12, 2009. The trial court granted a motion for new trial while the trial court maintained plenary power over the case. *See* TEX. R. CIV. P. 329b(e). On May 21, 2009, we notified the parties that the appeal would be dismissed for lack of jurisdiction. No reply has been filed.

The notices of appeal invoked the Court's appellate jurisdiction to review a judgment that has been vacated. The Court finds it lacks jurisdiction over the appeal. Accordingly, the appeal is dismissed.

APPEAL DISMISSED.

STEVE McKEITHEN
Chief Justice

Opinion Delivered July 16, 2009

Before McKeithen, C.J., Gaultney and Horton, JJ.