



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 2-09-216-CV

DANIEL L. FOSTER, D.O. AND
ANGELO L. OTERO, M.D.

APPELLANTS

V.

MARY RICHARDSON

APPELLEE

FROM THE 17TH DISTRICT COURT OF TARRANT COUNTY

MEMORANDUM OPINION¹

Appellant Angelo L. Otero, M.D. attempted to appeal from an order denying his motion to dismiss and granting a thirty-day extension to Appellee Mary Richardson to allow her the opportunity to cure deficiencies in her expert report. On July 27, 2009, we notified the parties that it appeared that this court might lack jurisdiction over Otero's attempted appeal because the order

¹ [See](#) Tex. R. App. P. 47.4.

at issue did not appear to be an appealable interlocutory order. Our letter also stated that unless Otero or any party desiring to continue Otero's appeal filed, on or before August 6, 2009, a response showing grounds for continuing the appeal, this attempted appeal would be dismissed for want of jurisdiction. *See* Tex. R. App. P. 42.3(a), 44.3; *see also* Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(9) (Vernon 2008) (stating that an appeal may not be taken from an order granting an extension under section 74.351).

On August 6, 2009, Otero filed a motion to dismiss his appeal, agreeing that his interlocutory appeal appeared to be premature and requesting that this court dismiss his pending interlocutory appeal. We grant his motion, and we dismiss Otero's appeal for want of jurisdiction. *See* Tex. R. App. P. 42.1(a)(1), 42.3(a), 43.2(f).

This case shall hereafter be styled "Daniel L. Foster, D.O. v. Mary Richardson."

PER CURIAM

PANEL: MCCOY, J.; CAYCE, C.J.; and MEIER, J.

DELIVERED: August 20, 2009