



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

NO. 02-15-00277-CV

PATRICIA OSBORNE,
INDIVIDUALLY AND CHARLES
OSBORNE, INDIVIDUALLY

APPELLANTS

V.

WILLIAM ROWE, M.D.

APPELLEE

FROM THE 393RD DISTRICT COURT OF DENTON COUNTY
TRIAL COURT NO. 14-06405-393

MEMORANDUM OPINION¹

On August 28, 2015, appellants Patricia Osborne, individually, and Charles Osborne, individually, filed a notice of appeal from the trial court's July 31, 2015 interlocutory order dismissing the Osbornes' claims against appellee William Rowe, M.D. for failure to serve an expert report within the statutory period for

¹See Tex. R. App. P. 47.4.

health care liability claims. See Tex. Civ. Prac. & Rem. Code Ann. § 74.351(b) (West Supp. 2014).

As is relevant to this appeal, section 51.014 of the civil practices and remedies code allows for an interlocutory appeal from an order that denies relief sought by a motion under section 74.351(b) (when an expert report has not been served) or that grants relief sought by a motion under section 74.351(l) (when an inadequate expert report has been served). See Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(9), (10) (West 2015). In this case, the trial court granted relief sought by Rowe's motion under section 74.351(b).

On September 16, 2015, we notified the Osbornes of our concern that we lacked jurisdiction over this appeal because the order being appealed does not appear to be a final judgment or an appealable interlocutory order. We instructed the Osbornes or any other party desiring to continue the appeal to file a response showing grounds for continuing the appeal or we may dismiss the appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 44.3. The Osbornes responded and requested until October 14, 2015, to obtain from the trial court a final judgment or an appealable interlocutory order. To date, no such judgment or order has been filed in this court.

If a trial court has not entered a final and appealable order, we have jurisdiction to hear an interlocutory appeal only if authorized by statute. *Stary v. DeBord*, 967 S.W.2d 352, 352–53 (Tex. 1998). We must strictly construe section 51.014 as a narrow exception to the general rule that only final judgments or

orders are appealable. See *Bally Total Fitness Corp. v. Jackson*, 53 S.W.3d 352, 355 (Tex. 2001); *Thoyakulathu v. Brennan*, 192 S.W.3d 849, 851 n.2 (Tex. App.—Texarkana 2006, no pet.). Because the order being appealed is not an order denying relief sought by a motion under section 74.351(b) or an order granting relief sought by a motion under section 74.351(l), we lack jurisdiction over this appeal. Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f).

/s/ Lee Gabriel

LEE GABRIEL
JUSTICE

PANEL: LIVINGSTON, C.J.; GABRIEL and SUDDERTH, JJ.

DELIVERED: October 29, 2015