



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-13-00087-CV

**TEXAS FARM BUREAU CASUALTY
INSURANCE COMPANY, APPELLANT**

V.

BRITTNI SAMPLEY, APPELLEE

On Appeal from the 181st District Court
Randall County, Texas
Trial Court No. 65,222-B, Honorable John B. Board, Presiding

April 17, 2013

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Appellee Brittni Sampley holds an auto policy issued by appellant Texas Farm Bureau Casualty Insurance Company. She and Farm Bureau disagree over the cost of repairs to her vehicle. Sampley invoked the appraisal procedure described in the policy, and named Robert Batt as appraiser on her behalf. Farm Bureau objected to her choice of Batt and filed suit against Sampley over that issue. Sampley brought a counterclaim against Farm Bureau for breach of contract and requested the trial court award her attorney's fees.

The trial court signed an order refusing to remove Batt as appraiser for Sampley. The interlocutory order contains language expressing the trial court's permission for the immediate appeal of the order. Tex. R. Civ. P. 168.

On March 28, 2013, Farm Bureau filed a petition for permissive appeal of the order refusing to remove Sampley's appointed appraiser. See Tex. Civ. Prac. & Rem. Code Ann. § 51.014(d) (West 2011); Tex. R. App. P. 28.3.

An appellate court may accept an interlocutory appeal permitted by subsection (d) of section 51.014 of the Civil Practice & Remedies Code. Tex. Civ. Prac. & Rem. Code Ann. § 51.014(f) (West 2011); Tex. R. App. P. 28.3(k). Subsection (d) allows a trial court to permit an appeal from an order that is not otherwise appealable if the order to be appealed involves a controlling question of law as to which there is a substantial ground for difference of opinion; and an immediate appeal from the order may materially advance the ultimate termination of the litigation. Tex. Civ. Prac. & Rem. Code Ann. § 51.014(d) (West 2011); see *Gulley v. State Farm Lloyds*, 350 S.W.3d 204 (Tex.App.—San Antonio 2011, no pet.) (applying subsection (d)).

We have thoroughly reviewed the petition and the supporting documents submitted both by Farm Bureau and Sampley. Having done so, we deny Farm Bureau's petition for permissive appeal.

Per Curiam