

DISMISS; and Opinion Filed July 21, 2014.



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

No. 05-14-00617-CV

**CHARLES JONES, Appellant
V.
JAMES P. NEIL, Appellee**

**On Appeal from the 59th Judicial District Court
Grayson County, Texas
Trial Court Cause No. CV-12-2015**

MEMORANDUM OPINION

Before Chief Justice Wright and Justices Lang-Miers and Brown
Opinion by Justice Lang-Miers

Pursuant to Texas Civil Practice and Remedies Code section 51.014(d) and Rule of Appellate Procedure 28.3, Charles Jones has filed a petition for permissive interlocutory appeal. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d) (West Supp. 2013); TEX. R. APP. P. 28.3. We may accept an interlocutory appeal pursuant to section 51.014(d) of the civil practice and remedies code if (1) the order being appealed involves a controlling question of law as to which there is a substantial ground for difference of opinion, and (2) an immediate appeal from the order may materially advance the ultimate termination of the litigation. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d). In his petition, Jones seeks review of the trial court's second amended order granting bill of review and motion for permissive appeal. That order provides in relevant part as follows:

the Court finds that there is a substantial ground for difference of opinion as to whether *Mabon Ltd. v. Afri-Carb Enters., Inc.*, 369 S.W.3d 809 (Tex. 2012) holds that when a bill of review petitioner did not receive notice of the underlying judgment there is no inquiry into whether the bill of review petitioner or his counsel had any negligence in the failure to receive notice. The Court finds that this holding could be in conflict with other cases including but not limited to *Campus Investments, Inc. v. Cullever*, 144 S.W.3d 464 (Tex. 2004).

We have reviewed the appellate court cases that apply *Mabon* in a bill of review context and do not find any disagreement as to *Mabon's* holding. See *Saint v. Bledsoe*, 416 S.W.3d 98 (Tex. App.—Texarkana 2013, no pet.); *Uribe v. Uribe*, No. 04-12-00629-CV, 2013 WL 4683867 (Tex. App.—San Antonio Aug. 30, 2013, no pet.). We also have reviewed *Cullever* and do not find it conflicts with *Mabon*. Accordingly, we conclude no substantial difference of opinion exists regarding the controlling question of law in this case, deny the petition, and dismiss the appeal. See TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d)(1); TEX. R. APP. P. 42.3(a).

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE

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

JUDGMENT

CHARLES JONES, Appellant

No. 05-14-00617-CV V.

JAMES P. NEIL, Appellee

On Appeal from the 59th Judicial District
Court, Grayson County, Texas

Trial Court Cause No. CV-12-2015.

Opinion delivered by Justice Lang-Miers.

Chief Justice Wright and Justice Brown
participating.

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

We **ORDER** that appellee James P. Neil recover his costs, if any, of this appeal from appellant Charles Jones.

Judgment entered this 21st day of July, 2014.