

DISMISS and Opinion Filed June 28, 2016.



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

No. 05-16-00436-CV

JOSE LUIS ALARCON, Appellant

V.

**EMILIO CASTILLO, INDIVIDUALLY AND
D/B/A EXPERT REBAR SERVICES, Appellee**

**On Appeal from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-10456**

MEMORANDUM OPINION

Before Justices Myers, Stoddart, and Whitehill
Opinion by Justice Stoddart

In a letter dated June 2, 2016, the Court questioned its jurisdiction over the appeal because there did not appear to be a final judgment. We instructed appellant to file a letter brief addressing our concern and gave appellee an opportunity to respond.

Generally, this Court has jurisdiction only over appeals from final judgments and certain interlocutory orders as permitted by statute. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A final judgment is one that disposes of all pending parties and claims. *See id.* Although a judgment following a trial on the merits is presumed to be final, there is no such presumption of finality following a summary judgment. *See id.* at 199–200.

Appellee asserted counterclaims for damages and attorney’s fees. The trial court’s order granting appellee’s motion for summary judgment states “[d]efendant’s claims for affirmative

relief are still pending.” In his letter brief, appellant contends what remains is essentially a motion for sanctions and that a pending motion for sanctions does not prevent a judgment from being final. *See Lane Bank Equip. Co. v. Smith Southern Equip., Inc.*, 10 S.W.3d 308, 312 (Tex. 2000). The record before this Court, however, does not contain a motion for sanctions. The record before this Court contains a judgment that, on its face, does not dispose of all claims. Accordingly, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

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/Craig Stoddart/

CRAIG STODDART
JUSTICE



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

JUDGMENT

JOSE LUIS ALARCON, Appellant

No. 05-16-00436-CV V.

EMILIO CASTILLO, INDIVIDUALLY
AND D/B/A EXPERT REBAR SERVICES,
Appellee

On Appeal from the 191st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-15-10456.
Opinion delivered by Justice Stoddart.
Justices Myers and Whitehill participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee EMILIO CASTILLO, INDIVIDUALLY AND D/B/A EXPERT REBAR SERVICES recover his costs of this appeal from appellant JOSE LUIS ALARCON.

Judgment entered this 28th day of June, 2016.