

Dismiss and Opinion Filed July 18, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00616-CV

**STEVEN MORVAY, DIRECTLY AND DERIVATIVELY
OF BLOOMFIELD KNOBLE, INC., Appellant**
V.
**BLOOMFIELD KNOBLE, INC., ERIC HIRSCHHORN, AND
CHRISTOPHER WEATHERLY, Appellees**

**On Appeal from the 116th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-16-15425**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Evans, and Justice Brown
Opinion by Chief Justice Wright

Before the Court is appellees' motion to dismiss the appeal and appellant's response. Appellee asserts this Court lacks jurisdiction because the trial court's judgment is not final because it does not dispose of their counterclaim for attorney's fees.

Generally, this Court has jurisdiction only over appeals from final judgments and certain interlocutory orders as permitted by statute. *See McFadin v. Broadway Coffeehouse, LLC*, 539 S.W.3d 278, 283 (Tex. 2018); TEX. CIV. PRAC. & REM. CODE ANN. § 51.014 (West Supp. 2017). A final judgment is one that disposes of all pending parties and claims. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001).

Appellees filed two separate motions for summary judgment — one addressing appellant’s claims in his individual capacity and the other addressing appellant’s shareholder derivative claims. In their motions, appellees sought summary judgment on appellant’s claims only. The trial court granted the motions and ordered that appellant, in both his capacities, take nothing on all causes of action against appellees. Neither the motions for summary judgment nor the trial court’s order granting the motions addressed appellees’ counterclaim for attorney’s fees. As such, the counterclaim remains pending before the trial court.

In his response, appellant states after the trial court signed the summary judgment order, the trial court cancelled all scheduled hearings and “closed” the matter. He filed a notice of appeal to “preserve his rights.” Appellant does not take a position on the finality of the summary judgment order.

Because all claims have not been disposed of and the trial court’s order is not otherwise appealable, this Court lacks jurisdiction. *See McFadin*, 539 S.W.3d at 283; *Lehmann*, 39 S.W.3d at 195. Accordingly, we grant appellees’ motion and dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

/Carolyn Wright/

CAROLYN WRIGHT
CHIEF JUSTICE

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

JUDGMENT

STEVEN MORVAY, DIRECTLY
AND DERIVATIVELY OF
BLOOMFIELD KNOBLE, INC., Appellant

No. 05-18-00616-CV V.

BLOOMFIELD KNOBLE, INC.,
ERIC HIRSCHHORN, AND
CHRISTOPHER WEATHERLY,
Appellees

On Appeal from the 116th Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-16-15425.
Opinion delivered by Chief Justice Wright.
Justices Evans and Brown participating.

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

It is **ORDERED** that appellees BLOOMFIELD KNOBLE, INC., ERIC HIRSCHHORN, AND CHRISTOPHER WEATHERLY recover their costs of this appeal from appellant STEVEN MORVAY, DIRECTLY AND DERIVATIVELY OF BLOOMFIELD KNOBLE, INC.

Judgment entered July 18, 2018.