

DISMISS and Opinion Filed November 23, 2021



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

No. 05-21-00766-CV

**ROBERT LYNN LLOYD, Appellant
V.
GAIL PHILLIPS MIZER, STEPHEN MIZER, AND
STEPHEN JACK MIZER, Appellees**

**On Appeal from the 471st Judicial District Court
Collin County, Texas
Trial Court Cause No. 471-03228-2020**

MEMORANDUM OPINION

Before Justices Myers, Molberg, and Garcia
Opinion by Justice Garcia

The Court questioned its jurisdiction over this appeal because there does not appear to be a final judgment or other appealable order. We directed appellant to file a letter brief addressing our concern with an opportunity for appellees to file a response. Appellant has complied.

Generally, this Court has jurisdiction over final judgments and certain interlocutory orders as permitted by statute. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); *see also* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a) (listing appealable interlocutory orders). A final judgment is one that disposes of all parties and claims. *See Lehmann*, 39 S.W.3d at 195.

Gail Phillips Mizer sued appellant. Appellant filed counterclaims against Ms. Mizer and third-party claims against Stephen Mizer and Stephen Jack Mizer. In his notice of appeal, appellant states he is appealing “the final judgment rendered on August 2, 2021.” The trial court signed two orders on August 2 – (1) granting Ms. Mizer’s motion for summary judgment on appellant’s counterclaims¹ and (2) granting third-party defendant Stephen Mizer’s motion for summary judgment. Although Stephen Mizer asserted a counterclaim for attorney’s fees, the trial court’s order does not dispose of it. Thus, appellant’s third-party claims against Stephen Jack Mizer and Stephen Mizer’s counterclaim for attorney’s fees remain pending.

Appellant filed a letter brief wherein he acknowledged no final judgment has been signed, noting that neither of the two orders appealed contained finality language and that he would remove the “stumbling block” regarding Stephen Jack Mizer “by the time the case is re-offered for appeal.” Because no final judgment has been rendered, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Dennise Garcia/
DENNISE GARCIA
JUSTICE

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¹ Subsequently, Ms. Mizer filed a notice of nonsuit on all her claims against appellant. By order signed on August 31, 2021, the trial court granted the nonsuit.



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

JUDGMENT

ROBERT LYNN LLOYD, Appellant

No. 05-21-00766-CV V.

GAIL PHILLIPS MIZER, STEPHEN
MIZER, AND STEPHEN JACK
MIZER, Appellees

On Appeal from the 471st Judicial
District Court, Collin County, Texas
Trial Court Cause No. 471-03228-
2020.

Opinion delivered by Justice Garcia.
Justices Myers and Molberg
participating.

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

It is **ORDERED** that appellees GAIL PHILLIPS MIZER, STEPHEN
MIZER, AND STEPHEN JACK MIZER recover their costs of this appeal from
appellant ROBERT LYNN LLOYD.

Judgment entered November 23, 2021