

**Motions Denied; Petitions for Writ of Mandamus, Injunction and Prohibition Denied and Memorandum Opinion filed October 19, 2012.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-12-00868-CV  
NO. 14-12-00869-CV  
NO. 14-12-00870-CV**

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**IN RE ROBERT H. BURROUGHS, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS  
WRIT OF INJUNCTION  
WRIT OF PROHIBITION  
On Appeal from the Probate Court No 4  
Harris County, Texas  
Trial Court Cause No. 396,576-401**

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**MEMORANDUM OPINION**

On September 21, 2012, relator, Robert H. Burroughs, filed a petition for writ of mandamus, writ of injunction, writ of prohibition and motion for emergency relief in this Court. *See* Tex. Gov't Code Ann. §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52. On October 5, 2012, relator filed an amended motion for temporary relief. Relator asks this Court to enjoin the Honorable Judge Christine Butts, presiding judge of the Probate

Court No. 4 of Harris County, from enforcing her order of August 22, 2012 and interfering with appeal number 14-12-00627-CV in this court.

In a probate proceeding, an order is final and appealable if it disposes of all parties or issues in a particular phase. *See DeAyala v. Mackie*, 193 S.W.3d 575, 578 (Tex. 2006); *In re Estate of Byrom*, 2011 WL 590588 Tex. App. -- Tyler 2011, pet. denied (mem. op.) (found order of removal final and appealable). The trial court's order does not address the request for attorney fees and does not include language indicating that it was denying relief not expressly granted. In the absence of language of finality, a trial court's failure to dispose of a pending attorney's fees claim renders a judgment interlocutory. *See McNally v. Guevara*, 52 S.W.3d 195, 196 (Tex. 2001). Upon entry of a final order, relator has an adequate remedy by appeal.

Relator has not established that he is entitled to relief. Accordingly, we deny relator's petition for writ of mandamus, writ of injunction, writ of prohibition, motion for emergency relief and amended motion for temporary relief.

PER CURIAM

Panel consists of Justices Frost, Christopher, Jamison.