

Affirmed as Modified and Opinion and Dissenting Opinion filed August 2, 2022.



In The

Fourteenth Court of Appeals

NO. 14-21-00123-CV

OLUWATOSIN L. AJAO, M.D., Appellant

V.

ALLISON TURNER HALL, Appellee

**On Appeal from the 239th District Court
Brazoria County, Texas
Trial Court Cause No. 104488-CV**

DISSENTING OPINION

This is an attempted interlocutory appeal from the denial of a motion to dismiss claims of medical negligence on the ground that the former patient did not serve the physician with an expert report before the statutory deadline. Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(9); *see* Tex. Civ. Prac. & Rem. Code Ann. § 74.351(a).

The clerk's record contains the order denying the motion with the following date and signature:

SIGNED this 8th day of February, 2020.



JUDGE PRESIDING

000298

The clerk's record also contains the notice of appeal:

Filed for Record
2/23/2021 4:41 PM
Rhonda Barchak, District Clerk
Brazoria County, Texas
104488-CV
Maureen Roy, Deputy

CAUSE NO. 104488-CV

ALLISON TURNER HALL	§	IN THE DISTRICT COURT
	§	
vs.	§	
	§	
MEMORIAL HERMANN HEALTH	§	239 TH JUDICIAL DISTRICT
SYSTEM D/B/A MEMORIAL	§	
HERMANN PEARLAND HOSPITAL,	§	
OLUWATOSIN L. AJAO, M.D., AND	§	
HARITA NYALAKONDA, M.D.	§	BRAZORIA COUNTY, TEXAS

DEFENDANT OLUWATOSIN L. AJAO, M.D.'S
NOTICE OF INTERLOCUTORY APPEAL

Based on the unambiguous plain language of the order in the clerk's record, the notice of appeal is untimely. *See* Tex. R. App. P. 26.1(b). This court should give notice of an involuntary dismissal for want of jurisdiction. Tex. R. App. P. 42.3(a).

I respectfully dissent.

/s/ Charles A. Spain
Justice

Panel consists of Chief Justice Christopher and Justices Bourliot and Spain
(Christopher, C.J., majority).