

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-10-00108-CV

Antonio **SALTON**,  
Appellant

v.

**GMAC MORTGAGE LLC** as Servicing Agent for the Bank of New York Trust Company, NA,  
Appellee

From the 166th Judicial District Court, Bexar County, Texas  
Trial Court No. 2009-CI-17819  
Honorable David A. Berchelmann, Jr., Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice  
Karen Angelini, Justice  
Sandee Bryan Marion, Justice

Delivered and Filed: March 24, 2010

**DISMISSED FOR LACK OF JURISDICTION**

Appellant filed a notice of appeal seeking to appeal an order dissolving a temporary restraining order that was signed by the trial court on November 3, 2009. Orders relating to temporary restraining orders are not generally appealable; however, such orders can be construed to be orders relating to temporary injunctions in certain circumstances. *In re Tex. Nat. Res. Conserv. Comm'n*, 85 S.W.3d 201, 205 (Tex. 2002). In such circumstances, however, the appeal of the order would be accelerated, and the notice of appeal would be required to be filed within twenty days from

the date the trial court signed the order. TEX. CIV. PRAC. & REM. CODE § 51.014(a)(4); TEX. R. APP. P. 26.1(b). Even assuming the order in the instant case could be construed as relating to a temporary injunction, the order was signed on November 3, 2009; therefore, the notice of appeal was required to have been filed no later than November 23, 2009. Appellant did not file his notice of appeal until February 2, 2010.

This court ordered appellant to show cause in writing no later than March 4, 2010, why this appeal should not be dismissed for lack of jurisdiction. Appellant responded, agreeing that the appeal was untimely filed and stating his intention to file a petition for writ of mandamus. Because the notice of appeal was untimely filed, this appeal is dismissed for lack of jurisdiction. Costs of the appeal are taxed against appellant.

PER CURIAM