

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



MEMORANDUM OPINION

No. 04-10-00792-CV

Willie **MAZON** and Deborah Mazon,
Appellants

v.

HOMEQ SERVICING CORPORATION,
Appellee

From the County Court at Law No. 2, Bexar County, Texas
Trial Court No. 358,991
Honorable Irene Rios, Judge Presiding

PER CURIAM

Sitting: Rebecca Simmons, Justice
Steven C. Hilbig, Justice
Marialyn Barnard, Justice

Delivered and Filed: December 1, 2010

DISMISSED FOR LACK OF JURISDICTION

Appellants' notice of appeal states their intention to appeal the trial court's order signed on October 15, 2010, denying appellants' motion for default judgment. Because the trial court's order did not dispose of all pending claims and, therefore, was not final and appealable, this court ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellants' response asserts that the trial court initially entered a final default judgment on August 9, 2010; therefore, the trial court's October 15, 2010 order was signed

outside its plenary power and was void. The trial court's August 9, 2010 order; however, did not address the damages issue in the underlying cause. Because the order did not dispose of the damages issue, it was not a final order. *See In re Burlington Coat Factory Warehouse of McAllen, Inc.*, 167 S.W.3d 827, 830-31 (Tex. 2005); *Houston Health Clubs, Inc. v. First Court of Appeals*, 722 S.W.2d 692, 693 (Tex. 1986); *see also* TEX. R. CIV. P. 241, 243 (providing for final default judgment to be rendered after damages are assessed). Because the trial court in the underlying cause has not signed a final, appealable order, this appeal is dismissed for lack of jurisdiction.

PER CURIAM