

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-06-00371-CV

Johnie Jennings, Appellant

v.

Carolyn Bindseil, Dan Bindseil, Jannalyn Welch, Julian Welch, Allen Knodel, Betty Knodel, Dale A. Friesenhahn, Horacio Ayala, Richard Aramendia, Daryl Payne, Melinda Payne, Deanna S. Wilson, Rodney Wilson, D.M. Stuller, William Hall, Clyde Marbach, Kurt Menking, Katherine Swoboda, Don Wallace, Charles Wittler, Appellees

**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT
NO. C2005-0149B, HONORABLE JACK H. ROBISON, JUDGE PRESIDING**

M E M O R A N D U M O P I N I O N

Johnie Jennings has appealed from the judgment signed by the district court on May 30, 2006. The appellees have suggested abatement of this appeal because the judgment was not final in that it failed to dispose of attorney's fees issues. In response to a query by this Court's clerk, Jennings filed a letter attaching a copy of a judgment and letter signed on May 30, 2006 by the district court. The judgment does not mention attorney's fees, while the letter details the court's intended attorney's fees awards and directs appellees' counsel to prepare an order. The parties agree that no order on attorney's fees has been signed. Jennings's counsel also stated that appellees' attorneys intended to request the district court to reconsider its intended award of attorney's fees and needed a reporter's record of the attorney's fee proceeding in order to prepare that challenge.

The parties' representations persuade us that the judgment appealed from is not final and that the notice of appeal was premature. We therefore abate the appeal until further order of this Court. Appellees are ordered to file a report with this Court monthly on or before the 16th of the month reporting on the status of proceedings below until the abatement is lifted. Either party may request that the abatement be lifted when the trial court has entered a judgment disposing of all issues.

G. Alan Waldrop, Justice

Before Justices B. A. Smith, Pemberton and Waldrop

Abated

Filed: September 22, 2006