

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-06-00502-CV

Austin Independent School District, Appellant

v.

H. C. Beck Partners, Ltd., Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 353RD JUDICIAL DISTRICT
NO. D-1-GV-03-003626, HONORABLE SUZANNE COVINGTON, JUDGE PRESIDING**

MEMORANDUM OPINION

H.C. Beck Partners, Ltd. has filed a Motion to Dismiss Appeal based on this Court's lack of jurisdiction. Although the trial court granted summary judgment on Austin Independent School District's claims against Beck, the cause remains pending in the trial court on other claims. If a trial court has not entered a final and appealable order, we have jurisdiction to hear an interlocutory appeal only if authorized by statute. *Stary v. DeBord*, 967 S.W.2d 352, 352-53 (Tex.1998); *Academy of Oriental Med., L.L.C. v. Andra*, 173 S.W.3d 184, 185 (Tex. App.—Austin 2005, no pet.); *see also* Tex. Civ. Prac. & Rem. Code Ann. § 51.014 (West Supp. 2006) (listing permissible interlocutory appeals). Because our jurisdiction over interlocutory appeals is a narrow exception to the general rule that we may only consider final judgments and orders, we must strictly construe section 51.014. *Bally Total Fitness Corp. v. Jackson*, 53 S.W.3d 352, 355 (Tex. 2001).

The school district acknowledges that this Court lacks jurisdiction on the face of the record, but argues that the premature filing of the notice of appeal is a defect that is subject to cure. *See* Tex. R. App. P. 27.2. The school district alternatively requests abatement so that it can seek a severance of the summary judgment order from the pending claims. As the appeal is currently postured, this Court lacks jurisdiction to address its merits. Further action in the trial court is required. We decline to abate in these circumstances because the nature of the future trial court action is unknown.

We deny the motion to abate the appeal. We grant the motion to dismiss for lack of jurisdiction.

G. Alan Waldrop, Justice

Before Chief Justice Law, Justices Pemberton and Waldrop

Dismissed for Want of Jurisdiction

Filed: December 8, 2006