

NO. 12-14-00188-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*WILBUR LEE BELL,*  
*APPELLANT*

§ *APPEAL FROM THE 44TH*

V.

§ *JUDICIAL DISTRICT COURT*

*CARNIVAL CORPORATION,*  
*CARNIVAL CRUISE LINE,*  
*CARNIVAL CONQUEST, ET AL,*  
*APPELLEES*

§ *DALLAS COUNTY, TEXAS*

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*MEMORANDUM OPINION*  
*PER CURIAM*

In this negligence case, the trial court signed a default judgment in Appellant's favor on October 30, 2013. On Appellees' motion, the trial court rendered an order setting aside the default judgment and granting a new trial. Appellant attempts to appeal that order. It is well settled, however, that an order granting a new trial is not appealable. *See, e.g., Fruehauf Corp. v. Carrillo*, 848 S.W.2d 83, 84 (Tex. 1993) (per curiam).

In a letter dated September 25, 2014, this court notified Appellant, pursuant to Texas Rule of Appellate Procedure 37.2, that the district clerk's record does not show the jurisdiction of this court. Specifically, Appellant was informed that the record does not contain a final judgment or other appealable order. Appellant was further notified that the appeal would be dismissed unless the district clerk's record was amended, on or before October 27, 2014, to show this court's jurisdiction. The October 27, 2014 deadline has now passed, the district clerk's record has not been amended, and Appellant has not responded to this court's notice. Accordingly, we *dismiss* the appeal *for want of jurisdiction*. *See* TEX. R. APP. P. 37.2; 42.3(a), (c).

Opinion delivered November 12, 2014.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(PUBLISH)



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

NOVEMBER 12, 2014

NO. 12-14-00188-CV

**WILBUR LEE BELL,**

Appellant

V.

**CARNIVAL CORPORATION, CARNIVAL CRUISE LINE,**

**CARNIVAL CONQUEST, ET AL,**

Appellees

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Appeal from the 44th District Court  
of Dallas County, Texas (Tr.Ct.No. DC-1309652)

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THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this court that this court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*