

NO. 12-21-00204-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>THE TRAVELERS INDEMNITY COMPANY, APPELLANT</i>	§	<i>APPEAL FROM THE 349TH</i>
<i>V.</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>GRAPELAND INDEPENDENT SCHOOL DISTRICT, APPELLEE</i>	§	<i>HOUSTON COUNTY, TEXAS</i>

***MEMORANDUM OPINION
PER CURIAM***

The Travelers Indemnity Company (“Travelers”) attempts to appeal the trial court’s denial of its motion to dismiss Grapeland Independent School District’s (“Grapeland ISD”) claims against it or stay the litigation in favor of arbitration. We dismiss the appeal for want of jurisdiction.

BACKGROUND

Grapeland ISD sued Travelers and the Texas Rural Education Association Risk Management Cooperative (“TREA”) for damages related to a claim settlement. Travelers filed a motion to dismiss Grapeland ISD’s claims against it or stay the litigation in favor of arbitration. After hearing the parties’ arguments, the trial court did not rule on the motion but gave the parties time to research the issue and send the court case law. No order on the motion appears in the clerk’s record.

Travelers filed a notice of appeal asserting that the trial court denied the motion in an email to the parties’ counsel. On December 6, 2021, this Court notified the parties that the Court’s jurisdiction was not shown because the record contained no appealable order, and the

appeal would be dismissed unless jurisdiction was shown by December 16.¹ Travelers timely filed a response with the email attached. The parties subsequently submitted their briefs on the merits.

APPEALABLE ORDER

In their briefs, both parties express doubt that the email is an appealable order. We conclude it is not.

An appeal may be taken from an order refusing a stay of a proceeding in which an issue is referable to arbitration. 9 U.S.C. §§ 3, 16(a)(1)(A). A decision is rendered when it is announced orally in open court or by memorandum filed with the clerk. *Schaeffer Homes, Inc. v. Esterak*, 792 S.W.2d 567, 569 (Tex. App.—El Paso 1990, no writ). To be effective, all orders and rulings must be made on the record either in writing or in open court transcribed by the court reporter. *In re Bill Heard Chevrolet, Ltd.*, 209 S.W.3d 311, 315 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding). Letters to counsel are not the kind of documents that constitute a judgment, decision, or order from which an appeal may be taken. *Goff v. Tuchscherer*, 627 S.W.2d 397, 398-99 (Tex. 1982).

The record in this case does not show that an appealable order was rendered. The reporter's record shows that the trial court did not rule on the motion at the time of the hearing. The email relied on by Travelers does not appear in the clerk's record. Because the record does not show that a decision on Travelers's motion was announced orally in open court or by memorandum filed with the clerk, there is no appealable order for us to review. See *Goff*, 627 S.W.2d at 398-99; *Bill Heard Chevrolet*, 209 S.W.3d at 315; *Schaeffer Homes*, 792 S.W.2d at 569. Accordingly, we lack jurisdiction over Travelers's appeal.

DISPOSITION

Having found no appealable order in the record, we *dismiss* the appeal *for want of jurisdiction*.

Opinion delivered June 30, 2022.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

¹ See TEX. R. APP. P. 42.3(a) (appellate court may dismiss appeal for want of jurisdiction on its own initiative after giving ten days' notice to all parties).



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JUNE 30, 2022

NO. 12-21-00204-CV

THE TRAVELERS INDEMNITY COMPANY,
Appellant
V.
GRAPELAND INDEPENDENT SCHOOL DISTRICT,
Appellee

Appeal from the 349th District Court
of Houston County, Texas (Tr.Ct.No. 20-0060)

THIS CAUSE came to be heard on the appellate record and briefs filed herein; and the same being considered, it is the opinion of this Court that this 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., Hoyle, J. and Neeley, J.