

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Chelsea L. Davis v. McKool Smith, P.C.

No. 05-13-01744-CV · No. 05-13-01744-CV · Decided May 14, 2014

SUMMARY

The Fifth District Court of Appeals of Texas dismissed the appeal for lack of jurisdiction because the challenged consolidation and implied stay orders were neither final judgments nor appealable interlocutory orders. The court ordered McKool Smith, P.C. to recover its appellate costs from Chelsea L. Davis.

OPINION

PER CURIAM.

DISMISS; and Opinion Filed May 14, 2014. S In The Court of Appeals Fifth District of Texas at Dallas No. 05-13-01744-CV CHELSEA L. DAVIS, Appellant V. MCKOOL SMITH, P.C., Appellee On Appeal from the 298th Judicial District Court Dallas County, Texas Trial Court Cause No. DC-13-12834-M MEMORANDUM OPINION Before Justices Bridges, Francis, and Lang-Miers Opinion by Justice Lang-Miers In a letter dated April 8, 2014, we questioned our jurisdiction over this appeal because there did not appear to be an appealable order.

We instructed appellant to file a letter brief within ten days addressing our jurisdictional concern. As of today's date, appellant has not responded. Generally, this Court has jurisdiction only over appeals from final judgments. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A final judgment is one that disposes of all pending parties and claims.

See *id.* The record before this Court includes two notices of appeal and one amended notice of appeal. In one notice of appeal and the amended notice of appeal, appellant states that she is appealing the trial court's order transferring the case and consolidating it with a case in the 254th Judicial District Court of Dallas County, Texas.

In the other notice of appeal, appellant states that she is appealing the "implied order to stay this action for all purposes other than matters relating to the motion to seal by canceling the sealing hearing..." Neither the order of consolidation nor the "implied order" constitutes a final judgment. See *Lehmann*, 39 S.W.3d at 195.

Moreover, an order consolidating separate lawsuits is a non-appealable interlocutory order. See *Carter v. Sun City Towing & Recovery, L.P.*, 225 S.W.3d 161, 162 (Tex. App.—El Paso 2005, no pet.). Because appellant is not appealing from a final judgment or otherwise appealable interlocutory order, this Court lacks jurisdiction.

For this reason, we dismiss this appeal. See TEX. R. APP. P. 42.3(a). /Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS JUSTICE 131744F.P05 –2– S Court of Appeals Fifth District of
Texas at Dallas JUDGMENT CHELSEA L. DAVIS, Appellant On Appeal from the 298th Judicial
District Court, Dallas County, Texas. No. 05-13-01744-CV V. Trial Court Cause No. DC-13-
12834-M. Opinion delivered by Justice Lang-Miers.

MCKOOL SMITH, P.C., Appellee Justices Bridges and Francis, participating. In accordance with
this Court's opinion of this date, the appeal is DISMISSED. It is ORDERED that appellee,
MCKOOL SMITH, P.C., recover its costs of this appeal from appellant, CHELSEA L. DAVIS.
Judgment entered this 14th day of May, 2014. /Elizabeth Lang-Miers/ ELIZABETH LANG-
MIERS JUSTICE –3–