

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.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Elizabeth Lang-Miers; Bridges; Francis; Lang-Miers
JURISDICTION	Texas
DECIDED	May 14, 2014
DOCKET	05-13-01744-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed orders transferring and consolidating the action and an alleged implied order staying the action. The court questioned its appellate jurisdiction and, after appellant failed to respond, dismissed the appeal for lack of jurisdiction.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and appealability.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Chelsea L. Davis v. McKool Smith, P.C.

TOPICS

- appellate jurisdiction
- final judgment rule
- interlocutory appeal
- appellate procedure
- civil procedure

PRACTICE AREAS

- Appellate procedure
- Civil procedure
- Commercial litigation

QUESTIONS PRESENTED

1. Whether the appellate court had jurisdiction over an appeal from an order transferring and consolidating the case with another case.
2. Whether the alleged implied order staying the action was a final judgment or otherwise appealable interlocutory order.
3. Whether the appeal should be dismissed for lack of appellate jurisdiction.

HOLDINGS

1. Neither the order transferring and consolidating the cases nor the alleged implied order staying the action constituted a final judgment or an otherwise appealable interlocutory order.
2. The appeal must be dismissed because the court lacked jurisdiction over an appeal from a nonfinal and nonappealable order.

KEY QUOTATIONS

“Generally, this Court has jurisdiction only over appeals from final judgments.” (at 2)

“A final judgment is one that disposes of all pending parties and claims.” (at 2)

“Moreover, an order consolidating separate lawsuits is a non-appealable interlocutory order.” (at 2)

FACTUAL BACKGROUND

The trial court entered an order transferring and consolidating the action with a case in the 254th Judicial District Court of Dallas County. Davis also challenged an alleged implied order staying the action for purposes unrelated to a motion to seal. The appellate record did not include a final judgment or another appealable order, and Davis did not respond to the appellate court's jurisdictional letter.

PROCEDURAL HISTORY

The matter originated in the 298th Judicial District Court of Dallas County, Texas, under trial court cause number DC-13-12834-M. Davis filed notices of appeal challenging an order transferring and consolidating the case with another case and an alleged implied stay order. The court determined that neither order was a final judgment or otherwise appealable interlocutory order and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001)
- *Carter v. Sun City Towing & Recovery, L.P.*, 225 S.W.3d 161, 162 (Tex. App.—El Paso 2005, no pet.)