

COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

Wallace Mitchell v. J.M. Thomas, Renee Boone, Tina Wise, Deborah Fontenette, T. Castillo, T. White, Caralyn Floyd, Nancy Wells, C.C. May, Luis Ramos, G. Coburn, S. Middlebrooks, John Fernon, H. Simmons, S.B. Permenter, C. Brekel, Big Body Longoria, and Wellpath Health

No. 09-24-00035-CV · No. No. 09-24-00035-CV · Decided January 8, 2026

SUMMARY

The Ninth Court of Appeals of Texas dismissed Wallace Mitchell’s appeal for lack of jurisdiction. The trial court had dismissed Mitchell’s healthcare liability claims against the Wellpath defendants under Texas Civil Practice and Remedies Code section 74.351(b) for failure to serve an expert report, but claims against an unserved defendant, Lewis Brisbois, remained unresolved. Because the trial court’s order was neither a final judgment nor appealable under the applicable interlocutory-appeal statute, the appellate court dismissed the appeal.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	W. Scott Golemon, Chief Justice; Wright, Justice; Chambers, Justice
JURISDICTION	Court of Appeals for the Ninth District of Texas at Beaumont
DECIDED	January 8, 2026
DOCKET	No. 09-24-00035-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Mitchell appealed from an order granting the Wellpath Defendants' motion to dismiss under Texas Civil Practice and Remedies Code section 74.351(b) and dismissing his claims against those defendants with prejudice. The court of appeals dismissed the appeal for lack of appellate jurisdiction because the order was not final and no statute authorized an interlocutory appeal.
STANDARD OF REVIEW	Subject-matter jurisdiction is reviewed de novo.
PRECEDENTIAL VALUE	published

PARTIES

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TOPICS

appellate jurisdiction subject matter jurisdiction final judgment rule interlocutory appeal health law

PRACTICE AREAS

civil procedure appellate procedure health law civil rights

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal from an order dismissing claims against some defendants when claims against an unserved defendant remained unresolved.
2. Whether the trial court's order was a final judgment under Texas law.
3. Whether Texas Civil Practice and Remedies Code section 51.014(a)(9) authorized an interlocutory appeal from an order granting, rather than denying, a motion under section 74.351(b).

HOLDINGS

1. An order dismissing claims against some defendants is not final when the record demonstrates that the plaintiff intended to continue pursuing claims against an unserved defendant and the order neither disposes of all parties and claims nor states with unmistakable clarity that it is final.
2. Absent a final judgment, the court of appeals lacks jurisdiction unless an interlocutory appeal is specifically authorized by statute.
3. Section 51.014(a)(9) authorizes an interlocutory appeal from an order denying all or part of the relief sought by a motion under section 74.351(b), but not from an order granting that motion.

KEY QUOTATIONS

“Unless specifically authorized by statute, Texas appellate courts only have jurisdiction to review final judgments.” (at 8)

“Since the record does not show that Mitchell intended to discontinue his claim against Lewis Brisbois, and the Order granting Defendants’ Chapter 74 Motion to Dismiss signed by the trial court failed to dispose of all parties and claims or state with “unmistakable clarity” that it is final, we conclude it does not constitute a final judgment for appellate purposes.” (at 10)

“Since the Order complained of was not a final judgment nor was an interlocutory appeal authorized by statute, this Court lacks jurisdiction.” (at 12)

FACTUAL BACKGROUND

Mitchell, an inmate, sued employees of Wellpath Health, alleging that they denied or delayed serious medical treatment and were deliberately indifferent to his medical needs. He also named Lewis Brisbois as a defendant, but the record showed that Lewis Brisbois was never served, never answered, and never appeared. The trial court dismissed Mitchell's claims against the Wellpath Defendants under Texas Civil Practice and Remedies Code section 74.351(b), but its order did not dispose of Lewis Brisbois or clearly state that it was final as to all parties and claims.

PROCEDURAL HISTORY

Mitchell filed a healthcare liability complaint in the 60th District Court of Jefferson County in April 2023. The Wellpath Defendants answered on April 28, 2023, and later moved to dismiss under Chapter 74 based on Mitchell's failure to serve an expert report; the trial court granted the motion on December 20, 2023. Mitchell filed an unverified motion to reinstate and then noticed an appeal, while claims against unserved defendant Lewis Brisbois remained unresolved. The court of appeals dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- City of Houston v. Rhule, 417 S.W.3d 440, 442 (Tex. 2013)
- Copley v. Guidry, No. 09-24-00046-CV, 2025 WL 1074805, at *4 (Tex. App.—Beaumont Apr. 10, 2025, no pet.) (mem. op.)
- Bison Bldg. Materials, Ltd. v. Aldridge, 422 S.W.3d 582, 585 (Tex. 2012)
- Stary v. DeBord, 967 S.W.2d 352, 352-53 (Tex. 1998)
- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 192-93 (Tex. 2001)
- Youngstown Sheet & Tube Co. v. Penn, 363 S.W.2d 230, 232 (Tex. 1962)
- M.O. Dental Lab v. Rape, 139 S.W.3d 671, 673-75 (Tex. 2004)
- Bradley v. Authur, No. 01-15-00065-CV, 2016 WL 7011412, at *2 (Tex. App.—Houston [1st Dist.] Dec. 1, 2016, pet. denied) (mem. op.)
- In re Sheppard, 193 S.W.3d 181, 188 (Tex. App.—Houston [1st Dist.] 2006, orig. proceeding)
- In re Minter Elec. Co., 277 S.W.3d 540, 544 (Tex. App.—Dallas 2009, orig. proceeding)
- McConnell v. May, 800 S.W.2d 194, 194 (Tex. 1990)
- Butts v. Cap. City Nursing Home, Inc., 705 S.W.2d 696, 697 (Tex. 1986)
- Trimble v. Muniz, No. 09-23-00212-CV, 2025 WL 719076, at *1 (Tex. App.—Beaumont Mar. 6, 2025, no pet.) (mem. op.)
- Novak v. Schaeffer, No. 09-21-00405-CV, 2023 WL 2707397, at *2 (Tex. App.—Beaumont Mar. 30, 2023, no pet.) (mem. op.)