

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**Arlene Bunch and Rick Toledo as Conservator for Darlene Toledo
Magner v. Darrell W. Goen and Alice C. Goen, Trustees of the Goen
Family Trust Dated April 13, 2006; Robert C. Dean and Teresa K.
Dean, Trustees of the Dean Family Trust Dated September 6, 2006;
Chester A. Hipple and Cynthia A. Hipple, as TTEE U/D/T 1/23/07
and Delbert M. Goen, Trustee of the Delbert M. Goen Living Trust
Dated August 16, 2006, Each as to Undivided 25% Interest**

No. 03-25-00614-CV (Tex. App.—Austin Dec. 16, 2025) (mem. op.) · No. No. 03-25-00614-CV · Decided
December 16, 2025

SUMMARY

The Texas Court of Appeals, Third District, dismissed the appeal for want of jurisdiction because the trial court's summary judgment was interlocutory rather than final. The judgment left the amount of attorney's fees and court costs to be determined later and did not clearly dispose of all claims and parties.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Maggie Ellis, Justice; Chief Justice Byrne; Justice Crump; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District at Austin
DECIDED	December 16, 2025
DOCKET	No. 03-25-00614-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants sought review of the trial court's July 17, 2025 summary judgment. The court of appeals sua sponte examined its appellate jurisdiction and dismissed the appeal for want of jurisdiction because the challenged judgment was interlocutory.
STANDARD OF REVIEW	Appellate courts independently examine their subject-matter jurisdiction, including whether an order is final and appealable.
PRECEDENTIAL VALUE	Published memorandum opinion

PARTIES

Arlene Bunch, Rick Toledo as Conservator for Darlene Toledo Magner v. Darrell W. Goen and Alice C. Goen, Trustees of the Goen Family Trust Dated April 13, 2006, Robert C. Dean and Teresa K. Dean, Trustees of the Dean Family Trust Dated September 6, 2006, Chester A. Hipple and Cynthia A. Hipple, as TTEE U/D/T 1/23/07, Delbert M. Goen, Trustee of the Delbert M. Goen Living Trust Dated August 16, 2006, Each as to Undivided 25% Interest

TOPICS

appellate jurisdiction

final judgment rule

interlocutory appeal

appellate procedure

civil procedure

PRACTICE AREAS

Appellate procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal from the trial court's July 17, 2025 summary judgment.
2. Whether the summary judgment was final and appealable when it left the amount of attorney's fees and court costs for later determination.

HOLDINGS

1. The court lacked jurisdiction because the trial court's summary judgment was interlocutory rather than final and appealable.

KEY QUOTATIONS

“Absent a conventional trial on the merits, a judgment “is final for purposes of appeal if and only if either it actually disposes of all claims and parties then before the court, regardless of its language, or it states with unmistakable clarity that it is a final judgment as to all claims and all parties.”” (at 2)

“A judgment that awards an unascertainable amount is interlocutory.” (at 2)

FACTUAL BACKGROUND

The trial court entered a July 17, 2025 summary judgment that did not state with unmistakable clarity that it was final as to all claims and parties. The judgment expressly left the amount of attorney's fees and court costs to be determined at a later date pursuant to an appropriate motion. No later order resolving the attorney's-fee issue had been entered when the court of appeals reviewed the matter.

PROCEDURAL HISTORY

The 433rd District Court of Comal County entered a summary judgment on July 17, 2025, expressly leaving the amount of attorney's fees and court costs to be determined later pursuant to an appropriate motion. The court of

appeals notified appellants of the jurisdictional defect and requested a response, but appellants did not respond. The appellate clerk confirmed that no subsequent order resolving attorney's fees had been issued, so the court dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Freedom Commc'ns, Inc. v. Coronado, 372 S.W.3d 621, 624 (Tex. 2012)
- Sabre Travel Int'l, Ltd. v. Deutsche Lufthansa AG, 567 S.W.3d 725, 736 (Tex. 2019)
- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 192–93 (Tex. 2001)
- Wright v. Liming, 702 S.W.3d 666, 673 (Tex. App.—Houston [1st Dist.] 2024, no pet.)
- Connect MGA LLC v. Waldrop, No. 02-22-00259-CV, 2023 WL 109736, at *3 (Tex. App.—Fort Worth Jan. 5, 2023, no pet.) (mem. op.)
- Spillman v. Las Colinas Ass'n, No. 05-22-00005-CV, 2022 WL 999942, at *1 (Tex. App.—Dallas Apr. 4, 2022, no pet.) (mem. op.)
- In re A.C.T.M., 682 S.W.3d 234, 235 n.2 (Tex. 2023) (per curiam)

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-25-00614-CV Arlene Bunch and Rick Toledo as Conservator for Darlene Toledo Magner, Appellants v. Darrell W. Goen and Alice C. Goen, Trustees of the Goen Family Trust Dated April 13, 2006; Robert C. Dean and Teresa K. Dean, Trustees of the Dean Family Trust Dated September 6, 2006; Chester A. Hipple and Cynthia A. Hipple, as TTEE U/D/T 1/23/07 and Delbert M. Goen, Trustee of the Delbert M. Goen Living Trust Dated August 16, 2006, Each as to Undivided 25% Interest, Appellees FROM THE 433RD DISTRICT COURT OF COMAL COUNTY NO. C2024-1920D, THE HONORABLE DIB WALDRIP, JUDGE PRESIDING MEMORANDUM OPINION This Court is obligated to determine, sua sponte, whether we lack jurisdiction over an appeal.

Freedom Commc'ns, Inc. v. Coronado, 372 S.W.3d 621, 624 (Tex. 2012). Generally, unless the Legislature confers jurisdiction by statute, we do not have jurisdiction over an interlocutory appeal. Sabre Travel Int'l, Ltd. v. Deutsche Lufthansa AG, 567 S.W.3d 725, 736 (Tex. 2019). Absent a conventional trial on the merits, a judgment “is final for purposes of appeal if and only if either it actually disposes of all claims and parties then before the court, regardless of its language, or it states with unmistakable clarity that it is a final judgment as to all claims and all parties.” Lehmann v. Har-Con Corp., 39 S.W.3d 191, 192–93 (Tex.

2001). The trial court’s July 17, 2025 summary judgment, from which appellants seek review, does neither. The judgment does not contain any language indicating its finality and expressly leaves the amount of attorney’s fees and court costs to be determined at a later date and “pursuant to an appropriate Motion.” “A judgment that awards an unascertainable amount is interlocutory.” *Wright v. Liming*, 702 S.W.3d 666, 673 (Tex.

App.—Houston [1st Dist.] 2024, no pet.). Because the trial court’s order awards an undiscernible amount of attorney’s fees and contains no indicia of its finality, we conclude that it is not final. See *id.*; see also *Connect MGA LLC v. Waldrop*, No. 02-22-00259-CV, 2023 WL 109736, at *3 (Tex. App.—Fort Worth Jan. 5, 2023, no pet.) (mem. op.) (order that “contemplate[d] future action by the trial court,” namely, “determining the amount of attorney’s fees to be awarded,” was interlocutory); *Spillman v. Las Colinas Ass’n*, No. 05-22-00005-CV, 2022 WL 999942, at *1 (Tex.

App.—Dallas Apr. 4, 2022, no pet.) (mem. op.) (same). On November 3, 2025, we notified the parties of this jurisdictional defect. We requested that appellants respond to this notice by November 13, 2025, and informed them that the failure to do so could result in the dismissal of this appeal.

To date, appellants have not responded. On December 11, 2025, the Clerk of this Court communicated with the trial court clerk and confirmed that no order has been issued in the underlying matter that resolves the issue of attorney’s fees. See *In re A.C.T.M.*, 682 S.W.3d 234, 235 n.2 (Tex. 2023) (per curiam) (citing Tex. R. App. P. 34.5).

Because there is no final order before us, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a); *Lehmann*, 39 S.W.3d at 192–93. 2

Maggie Ellis, Justice Before Chief Justice
Byrne, Justices Crump and Ellis Dismissed for Want of Jurisdiction Filed: December 16, 2025 3