

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

Kalyn Peterson, Individually and as Heir to Jacob Peterson v. D&S
Residential Services, LP

No. 02-25-00558-CV (Tex. App.—Fort Worth Dec. 4, 2025) (per curiam memorandum opinion) · No. 02-25-00558-CV · Decided December 4, 2025

SUMMARY

The Texas Court of Appeals for the Second District dismissed the appeal for want of jurisdiction. The court held that the appeal from the Chapter 74 expert-report order was untimely and that the nonfinal order granting the Rule 91a motion was neither a final judgment nor an appealable interlocutory order. The opinion was issued per curiam on December 4, 2025.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Per Curiam; Bassel; Womack; Wallach
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	December 4, 2025
DOCKET	02-25-00558-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant attempted to appeal two trial-court orders: an order granting a Texas Rule of Civil Procedure 91a motion to dismiss and an order granting objections to an amended Texas Civil Practice and Remedies Code Chapter 74 expert report and dismissing claims for failure to serve a compliant report. The court of appeals questioned its jurisdiction and dismissed the appeal for want of jurisdiction.
STANDARD OF REVIEW	De novo jurisdictional review; an appellate court must determine its jurisdiction before reaching the merits.
PRECEDENTIAL VALUE	published
PARTIES	Kalyn Peterson, individually and as heir to Jacob Peterson v. D&S Residential Services, LP

TOPICS

appellate jurisdiction

interlocutory appeal

final judgment rule

appellate procedure

civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

health law

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over the appeal from the Chapter 74 order when the notice of appeal was filed after the applicable accelerated-appeal deadline.
2. Whether the court of appeals had jurisdiction over the appeal from the Rule 91a dismissal order when the order was nonfinal and was not among the interlocutory orders made appealable by statute.

HOLDINGS

1. The court lacked jurisdiction over the appeal from the Chapter 74 order because the notice of appeal was not timely filed in the accelerated appeal.
2. A nonfinal order granting a Rule 91a motion to dismiss is not appealable unless it is a final judgment or falls within a statutory category of appealable interlocutory orders.

KEY QUOTATIONS

“Additionally, we have jurisdiction to consider appeals only from final judgments and from certain interlocutory orders made immediately appealable by statute.” (at 3)

“Absent a timely filed notice of appeal, we lack jurisdiction over an appeal.” (at 2)

FACTUAL BACKGROUND

Peterson asserted claims against D&S Residential Services, LP and D&S Residential Management GP, LLC. The trial court dismissed Peterson's claims against D&S Residential Services, LP under Texas Rule of Civil Procedure 91a and separately granted objections to Peterson's amended Chapter 74 expert report and dismissed claims for failure to serve a compliant report. Claims against D&S Residential Management GP, LLC apparently remained pending when the notice of appeal was filed.

PROCEDURAL HISTORY

The 431st District Court of Denton County entered the challenged orders on August 27 and August 28, 2025. Peterson filed a notice of appeal on October 20, 2025. The court of appeals notified the parties of possible jurisdictional defects; Peterson acknowledged that the Chapter 74 appeal was untimely, abandoned that appeal, and agreed that the Rule 91a order was not final, while indicating that she might seek severance. The appellate court dismissed the appeal because the Chapter 74 notice of appeal was untimely and the Rule 91a order was neither a final judgment nor an appealable interlocutory order.

DISPOSITION

dismissed

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195, 200 (Tex. 2001)
- *DRC Constr. v. Pickle*, No. 01-20-00576-CV, 2022 WL 479918, at *3-*4 (Tex. App.—Houston [1st Dist.] Feb. 17, 2022, no pet.) (per curiam) (mem. op.)
- *Arthur P. Holdings, L.P. v. Blackburne & Brown Mortg. Fund I*, No. 01-25-00500-CV, 2025 WL 3083348, at *2 (Tex. App.—Houston [1st Dist.] Oct. 28, 2025, no pet. h.) (per curiam) (mem. op.)
- *Jaffer v. Slaughter*, No. 14-16-01006-CV, 2017 WL 124526, at *1-*2 (Tex. App.—Houston [14th Dist.] Jan. 12, 2017, no pet.) (per curiam) (mem. op.)

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