

Dismissed and Opinion filed November 9, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-01145-CV

**THOMAS BUCKLEY, PATRICK SMETEK, TEXAS CAPITAL SECURITIES
MANAGEMENT COMPANY, INC., AND THOMAS R. RECKLING, IV, Appellants**

V.

J. D. SANDEFER, III AND STEPHEN F. SMITH, Appellees

**On Appeal from the 270th District Court
Harris County, Texas
Trial Court Cause No. 99-08372**

O P I N I O N

This is an attempted appeal from an order granting partial summary judgment, signed March 28, 2000. Because we find this order interlocutory, we dismiss for lack of jurisdiction.

The partial summary judgment, signed March 28, 2000, addressed only appellees' claims under the Texas Securities Act. This order did not contain Mother Hubbard language, and indeed addressed the fact that it was interlocutory by awarding costs and interest in the event the judgment became final by nonsuit or otherwise. On June 1, 2000, the trial court signed an order granting appellees' motion to strike the third party petition against Steven Nichols Johnson. On June 2, 2000, appellees filed a notice of partial

nonsuit of their remaining claims, by which they expressly stated their intent to render the partial summary judgment of March 28, 2000, final and appealable. Appellants filed a motion to vacate summary judgment and for new trial, which the trial court overruled by order, signed August 25, 2000. Appellants filed their notice of appeal on August 28, 2000.

Appellants argue that the summary judgment was made final by the filing of the notice of nonsuit, but this is incorrect. When a nonsuit is filed after a partial summary judgment has been signed, the judgment does not become final until the trial court signs either an order granting the nonsuit or a final judgment explicitly memorializing the nonsuit. *See Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex. 1995). Because the record contains neither an order granting the nonsuit nor a judgment memorializing the nonsuit, the partial summary judgment is not final. We have no jurisdiction to entertain an appeal from a judgment that is not final, absent specific statutory authority. *See TEX. CIV. PRAC. & REM. CODE ANN.* § 51.012 (Vernon 1997).

On October 17, 2000, notification was transmitted to all parties of the Court's intent to dismiss the appeal for want of jurisdiction. *See TEX. R. APP. P.* 42.3(a). Appellant's response fails to demonstrate that this Court has jurisdiction to entertain the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed November 9, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

Do Not Publish — *TEX. R. APP. P.* 47.3(b).