

DISMISS; and Opinion Filed April 11, 2017.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00002-CV

**VIVERI YOUTH SERVICE, LLC AND DAVID LOYENS, Appellants
V.
TODD ORME, ASHLEY E. BRANDT, AND WATERFORD ACADEMY LLC, Appellees**

**On Appeal from the 193rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-06879**

MEMORANDUM OPINION

Before Justices Lang, Fillmore, and Schenck
Opinion by Justice Fillmore

Viveri Youth Service, LLC and David Loyens (collectively appellants) filed a lawsuit against Todd Orme, Ashley E. Brandt, Waterford Academy LLC, Mark Petty, and Erica Swicegood. Orme filed counterclaims against appellants. Petty filed a cross-claim against Orme. The trial court subsequently granted the respective motions for summary judgment filed by each defendant on appellants' claims, and severed the action against Swicegood. Appellants timely appealed, complaining only of the summary judgments in favor of Orme, Brandt, and Waterford Academy.

Because the summary judgment orders did not dispose of appellee Orme's counterclaims or Petty's cross-claims against Orme, the Court questioned its jurisdiction over the appeal and instructed the parties to file letter briefs addressing our concern. Appellants and appellees filed letter briefs with the Court addressing jurisdiction.

Generally, this Court has jurisdiction only over appeals from final judgments and certain interlocutory orders as permitted by statute. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A final judgment is one that disposes of all pending parties and claims. *See id.*

In their jurisdictional brief, appellants make two arguments in support of jurisdiction. First, they contend the trial court “intended the order issued on 12/01/16 [the last order] to be final” and that the last order “closed the case.” The last order, however, contains no language of finality or other indication the case was closed. While the trial court’s docket sheet reflects the case was closed, a docket sheet entry does not constitute a judgment or other appealable order of the trial court. *See Bailey–Mason v. Mason*, 122 S.W.3d 894, 897 (Tex. App.—Dallas 2003, pet. denied). Second, appellants contend, without elaboration, that the substance of the claims asserted by Petty and Orme were dependent upon appellants’ claims. Aside from Petty’s cross-claim for indemnity, the record does not establish Petty’s other cross-claim for fraud by nondisclosure and Orme’s counterclaims for breach of contract and fraudulent inducement are contingent upon appellants’ claims. Thus, the record before this Court does not support appellants’ second contention.

The trial court’s summary judgment orders did not dispose of Orme’s counterclaims and Petty’s cross-claim and these claims remain pending in the trial court. Accordingly, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Robert M. Fillmore/
ROBERT M. FILLMORE
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

VIVERI YOUTH SERVICE, LLC AND
DAVID LOYENS, Appellants

No. 05-17-00002-CV V.

TODD ORME, ASHLEY E. BRANDT,
AND WATERFORD ACADEMY LLC,
Appellees

On Appeal from the 193rd Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-15-06879.
Opinion delivered by Justice Fillmore.
Justices Lang and Schenck participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellees TODD ORME, ASHLEY E. BRANDT, AND WATERFORD ACADEMY LLC recover their costs of this appeal from appellants VIVERI YOUTH SERVICE, LLC AND DAVID LOYENS.

Judgment entered this 11th day of April, 2017.