

Dismissed and Opinion Filed October 2, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-00831-CV

GALAXY BUILDERS, LTD., Appellant
V.
GLOBUS MANAGEMENT GROUP, LLC, Appellee

On Appeal from the 193rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-17-04373

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Francis, and Justice Stoddart
Opinion by Chief Justice Wright

Before the Court is Galaxy Builders, Ltd.'s unopposed motion to determine jurisdiction over this appeal. The appeal follows the trial court's order denying Galaxy's application for enforcement of arbitrator's subpoena against Globus Management Group, LLC. Galaxy filed the appeal "as a precaution" because the order recites it is final. A final order is generally appealable. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). However, noting an order is not final "merely because it is entitled 'final,' or because the word 'final' appears elsewhere in the order," Galaxy questions the finality and appealability of the trial court's order. *See id.* at 205. Galaxy asserts an order "is not final for appellate purposes unless it 'disposes of all pending parties and claims.'" *See id.* at 195. Galaxy and Globus's issues extend beyond the

enforceability of the subpoena, and because the order addresses only the subpoena, Galaxy asserts it is not final.

Galaxy filed its application to enforce the subpoena pursuant to section 171.086 of the Texas General Arbitration Act (TAA), during the pendency of arbitration with Globus. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 171.086(b)(2) (West 2011) (allowing a party, during arbitration, to apply for a court order requiring witness or adverse party to comply with order made by arbitrator under TAA). The appealability of orders entered under the TAA is governed by section 171.098 of the TAA. *See id.* § 171.098; *E. Tex. Salt Water Disposal Co., Inc. v. Werline*, 307 S.W.3d 267, 270 (Tex. 2010). That section, which lists the orders from which an appeal may be taken, is “intended to remove doubts as to what orders are appealable and to limit appeals prior to judgment to those instances where the element of finality is present.” *Werline*, 307 S.W.3d at 277 (Jefferson, J., dissenting) (quoting HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, prefatory note 162 (1955)); *see also* TEX. CIV. PRAC. & REM. CODE ANN. § 171.098(a). An order denying an application to enforce a subpoena does not have any “element of finality” and is not included among the appealable orders in section 171.098. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 171.098(a).

Because the complained-of order is not appealable, we lack jurisdiction over this appeal. *See Bison Bldg. Materials, Ltd. v. Aldridge*, 422 S.W.3d 582, 585 (Tex. 2012) (“Unless specifically authorized by statute, Texas appellate courts only have jurisdiction to review final judgments . . . [that] dispose[] of all claims and parties[.]”).

Accordingly, we dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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

JUDGMENT

GALAXY BUILDERS, LTD., Appellant

No. 05-17-00831-CV V.

GLOBUS MANAGEMENT GROUP, LLC,
Appellee

On Appeal from the 193rd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DC-17-04373.

Opinion delivered by Chief Justice Wright.

Justices Francis and Stoddart participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** appellee Globus Management Group, LLC recover its costs, if any, of this appeal from appellant Galaxy Builders, Ltd.

Judgment entered October 2, 2017.