

Dismiss and Opinion Filed January 5, 2022



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

No. 05-21-00625-CV

**EAGLE REMODEL LLC, Appellant
V.
CAPITAL ONE FINANCIAL CORPORATION D/B/A CAPITAL ONE
BANK, Appellee**

**On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-20-02277**

MEMORANDUM OPINION

Before Justices Reichel, Nowell, and Carlyle
Opinion by Justice Carlyle

This is an appeal from a summary judgment order dismissing with prejudice appellant's various claims against appellee for allegedly cashing forged checks drawn on appellant's checking account. Finding appellee entitled to attorney's fees and expenses as the prevailing party, the trial court directed appellee in the order to file a motion for fees and expenses.

Because an appeal may generally be taken only from a final judgment that disposes of all parties and claims, and the summary judgment order did not determine all claims, we questioned our jurisdiction over the appeal. *See Lehmann*

v. Har-Con Corp., 39 S.W.3d 191, 195 (Tex. 2001). Appellant asserts in a letter brief filed at our direction that the order is appealable because appellee did not file a counterclaim for fees and the order included a “Mother Hubbard” clause stating that “All relief not expressly granted herein is denied.” As appellee notes in its response, however, a “Mother Hubbard” clause is not indicative of finality when, as here, a conventional trial on the merits was not held. *See id.* at 203–04. Neither is that a counterclaim for fees might not have been filed when the order specifically leaves the issue of attorney’s fees pending. Rather, to be final, a summary judgment order must reflect the trial court intended to completely dispose of the entire case. *Id.* at 205.

Because the summary judgment order here reflects the opposite, we dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

210625f.p05

/Cory L. Carlyle//
CORY L. CARLYLE
JUSTICE



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

JUDGMENT

EAGLE REMODEL LLC, Appellant

No. 05-21-00625-CV V.

CAPITAL ONE FINANCIAL
CORPORATION D/B/A CAPITAL
ONE BANK, Appellee

On Appeal from the 160th Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DC-20-02277.
Opinion delivered by Justice Carlyle,
Justices Reichek and Nowell
participating.

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

We **ORDER** that appellee Capital One Financial Corporation d/b/a Capital One Bank recover its costs, if any, of this appeal from appellant Eagle Remodel LLC.

Judgment entered this 5th day of January, 2022.