

Motion Denied and Order on Rehearing and Dissent to Order filed June 23, 2020.



**In The
Fourteenth Court of Appeals**

NO. 14-17-00379-CV

**ALEJANDRO L. PADUA AND THE PADUA LAW FIRM, PLLC,
Appellants**

V.

**JASON A. GIBSON, P.C. D/B/A THE GIBSON LAW FIRM AND JASON A.
GIBSON, Appellees**

**On Appeal from the 129th District Court
Harris County, Texas
Trial Court Cause No. 2016-31672**

DISSENT TO ORDER

Appellants/plaintiffs Alejandro L. Padua and The Padua Law Firm, PLLC (collectively, the “Padua Parties”) asserted in this appeal that in the July 12, 2018 severance order, the trial court made its summary-judgment order final and appealable, which, if true, would clothe this court with jurisdiction over this appeal. This court has divided on issue of appellate jurisdiction, with the majority concluding that the severance order does not make the summary-judgment order

final and appealable.¹ On February 28, 2020, this court dismissed this appeal for lack of appellate jurisdiction, with one justice dissenting.²

Now, the Padua Parties have filed a motion for rehearing in which they ask this court to set aside the judgment dismissing this appeal for lack of appellate jurisdiction and to abate this appeal to allow the trial court to take action to make its summary-judgment order final. Perhaps deeming abatement for another trip to the trial court the most expeditious route to merits review, the Padua Parties do not ask this court to change its ruling that the summary-judgment order is interlocutory.

For the reasons stated in the dissenting opinion and fortified in a recent opinion from the Supreme Court of Texas, the trial court made its summary-judgment order final and appealable in the July 12, 2018 severance order.³ While the law does not require this court to dismiss or abate the appeal based on the lack of a final and appealable judgment, given this court's ruling that the trial court's summary-judgment order is interlocutory and the Padua Parties' abatement request, the court should grant the Padua Parties' motion for rehearing and abate this appeal rather than dismiss it. Because the court instead denies the motion, I respectfully dissent.

/s/ Kem Thompson Frost

Kem Thompson Frost
Chief Justice

Panel consists of Chief Justice Frost and Justices Spain and Poissant (Spain, J., majority).

¹ See *Padua v. Jason A. Gibson, P.C.*, No. 14-17-00379-CV, 2020 WL 976953, at *2–4 (Tex. App.—Houston [14th Dist.] Feb. 28, 2020, no pet. h.); *id.* at *4–9 (Frost, C.J., dissenting).

² See *id.* at *2–4; *id.* at 4–9 (Frost, C.J., dissenting).

³ See *Bella Palma, LLC v. Young*, No. 19-0204, 2020 WL 1898543, at *2 (Tex. Apr. 17, 2020) (per curiam); *Padua*, 2020 WL 976953, at *4–9 (Frost, C.J., dissenting).