

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



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FOR IMMEDIATE RELEASE
December 5, 2013

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, December 10, 2013, beginning at 9:00 a.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following cases will be presented:

The Heirs of Andres Garcia and Francesca Menchaca v. Atlee Parr, Ranch Enterprises, LLC, Los Orcones Ranch Ltd and Los Orcones Ranch Management LLC – This is an appeal from a summary judgment in favor of the defendants in a trespass to try title action involving over 10,000 acres of land in Duval County. Appellants, all heirs of Andres Garcia and Francesca Menchaca, sued Atlee M. Parr, individually and as Independent Executor of the Estate of Hilda Parr, and Los Orcones Ranch Management, L.L.C., to try title and for an accounting of profits made from the land. The plaintiffs contend they own the land granted to Andres Garcia in 1836 and patented to his heirs by the State of Texas in 1877, through intestate succession. The issues on appeal include (1) whether the defendants conclusively established their ownership through a regular chain of conveyances from the sovereign; (2) whether the evidence conclusively establishes that one of plaintiffs' ancestors and her siblings conveyed all their interests in the property; (3) whether defendants conclusively established title to the surface estate, mineral estate, or both by adverse possession, (4) whether the plaintiffs produced any evidence of title; (5) whether trial court abused its discretion in overruling various objections to summary judgment evidence, in denying a motion to compel discovery, or in allowing defendants to amend their abstract of title; and (6) whether the trial court erred by denying a bill of review seeking to reopen a previously dismissed trespass to try title action.

Joe A. Zuniga v. The City of San Antonio, Acting by and Through its Agent City Public Service Board d/b/a CPS Energy – This appeal concerns whether summary judgment was properly granted on appellant Joe A. Zuniga's claim for

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retaliation against his former employer, The City of San Antonio, Acting By and Through its Agent City Public Service Board d/b/a CPS Energy.

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, December 11, 2013, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The followings cases will be presented:

Bexar County, Texas v. Deputy Sheriff's Association of Bexar County - This appeal arises from Bexar County's refusal to permit payroll deductions which it contends are not authorized by law. After a bench trial, the trial court granted a declaratory judgment in favor of the Deputy Sheriff's Association of Bexar County. On appeal, the County contends: (1) it is not statutorily authorized to deduct membership dues which have been designated as political action committee contributions; and (2) the trial court's award of attorney's fees was not just and equitable.

In re Willa Peters Hubberd Testamentary Trust - Mary Dahlman appeals the probate court's orders modifying the terms of a testamentary trust based on a mediated settlement agreement signed by all of the parties to the underlying cause and their attorneys. On appeal, Dahlman contends: (1) the probate court lacked jurisdiction to enter the order because the petition to modify was not filed by a beneficiary or trustee as required by section 112.054(a) of the Texas Trust Code; (2) the modifications or amendments to the trust were inconsistent with the purpose of the trust; and (3) the probate court should have awarded sanctions because the petition was groundless and filed in bad faith. In addition to asserting that the probate court's order should be affirmed, one of the appellees requests that this court impose sanctions against Dahlman for filing a frivolous appeal.

The Fourth Court of Appeals will hear oral arguments in two appeals on Thursday, December 12, 2013, beginning at 9:00 a.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following cases will be presented:

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Gerardo Gabriel De La Fuente v. The State of Texas – Gerardo De La Fuente appeals his murder conviction, contending there was insufficient evidence to corroborate the accomplice witness’s testimony and thus insufficient evidence to support the jury’s guilty verdict. De La Fuente also raises several other issues including violation of his right to a public trial based on exclusion of his family members during voir dire, denial of his requested jury instructions, violation of his confrontation right, and prosecutorial misconduct.

Nicole Iris Vatcher v. Thomas R. Vatcher - Appellant, Nicole Vatcher, is a German citizen. Appellee, Thomas Vatcher, is a US citizen and active duty military who has designated Texas as his state of residence. Thomas petitioned for divorce in Bexar County, Texas. Because the parties were living in Germany on a military installation at the time, Thomas served Nicole by certified mail at her Army post office address. In this appeal from a final decree of divorce, Nicole asserts the trial court lacked jurisdiction because Thomas failed to serve her pursuant to the terms of the Hague Convention; therefore, any orders rendered by the trial court are void.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, December 12, 2013, beginning at 1:30 p.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following case will be presented:

Teal Trading and Development, LP v. Champee Springs Ranch Property Owners Association - Teal Trading & Development, LP appeals the trial court’s declaratory judgment that Champee Springs Ranches Property Owners Association has the right to enforce a restrictive covenant burdening Teal Trading’s property.

The oral arguments will be held in the Fourth Court’s Courtroom, Cadena-Reeves Justice Center, Third Floor, 300 Dolorosa, San Antonio, Texas.