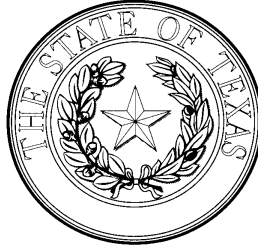


Opinion issued July 9, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00436-CV

**IN RE DON JACOBSON AUTOMOBILES, INC.
D/B/A HILLCROFT AUTO CO., Relator**

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Don Jacobson Automobiles, Inc. d/b/a Hillcroft Auto Co. (“Jacobson”), seeks mandamus relief in connection with the county court’s May 5, 2020 denial of a motion to dismiss for want of jurisdiction.¹ Relator asserted the

¹ The underlying case is *Don Jacobson Automobiles, Inc. d/b/a Hillcroft Auto Company v. United Automobile Insurance Services*, cause number 1152048, pending in the County Civil Court at Law No. 4 of Harris County, Texas, the Honorable Lesley Briones presiding.

real party in interest, United Automobile Insurance Services, did not post a sufficient appeal bond and, therefore, the county court lacked jurisdiction and should have dismissed the real party in interest's appeal from a justice court judgment. We deny the relief sought.

Texas Rule of Civil Procedure 506.1, which governs appeals from justice courts, says the defendant "must file a bond in an amount equal to twice the amount of the judgment." TEX. R. CIV. P. 506.1(b). The Texas Supreme Court has held the amount required to be posted as a bond typically does not include attorney fees incurred in the prosecution or defense of a claim because attorney fees are not compensatory damages. *In re Nalle Plastics Family Ltd. P'ship*, 406 S.W.3d 168, 173 (Tex. 2013) ("Judgment debtors must now post appeal bonds 'equal [to] the sum of ... the amount of compensatory damages awarded in the judgment[,] ... interest for the estimated duration of the appeal[,] and ... costs awarded in the judgment.'") (citing TEX. CIV. PRAC. & REM. CODE § 52.006(a)). The supreme court said in *Nalle Plastics* that "[w]hile attorney's fees for the prosecution or defense of a claim may be compensatory in that they help make a claimant whole, they are not, and have never been, damages. Not every amount, even if compensatory, can be considered damages." *Id.* at 173.

We deny the petition for writ of mandamus.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Lloyd and Countiss.