

# 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  
October 3, 2013

## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, October 8, 2013, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Patricia O. Alvarez.

The following case will be presented:

*Nina Kellner as Trustee for the Oscar Kellner and Nina Kellner Revocable Living Trust and Kirk Kellner* - This appeal arises from a dispute involving a trust created by Etta Lee Kellner in 1990 and Etta's will, which was admitted to probate in 1994 as a muniment of title. The trial court granted a partial summary judgment setting aside two deeds conveying land from the trust to Etta's estate and a second summary judgment declaring that Lloyd Kellner was vested with fee simple ownership of one-half of all real property remaining in the Etta Lee Kellner Management Trust at the time of her death. The two summary judgments were merged into a final judgment, and the rulings in both summary judgments are challenged in this appeal.

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, October 8, 2013, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Patricia O. Alvarez.

The following cases will be presented:

*Robert Watson v. The State of Texas* - This appeal stems from Robert Watson's felony conviction of delivery of a controlled substance. At the core of Watson's objections was the State's use of a confidential informant. Both parties agree the informant had a criminal history and was working for the State in exchange for leniency with a pending charge. After the officer wired the informant with an audio/video recorder, the informant met with Watson and purchased cocaine. At trial, however, the informant was a fugitive from justice and did not testify. On appeal, Watson argues (1) the trial court erred in admitting the cocaine, photographs of the cocaine, and the laboratory analysis based on the State's failure

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to authenticate the chain of custody; (2) the trial court failed to instruct the jury regarding corroborating evidence; (3) the confidential informant’s testimony was not sufficiently corroborated by evidence connecting Watson to the offense; (4) the trial court erred in failing to instruct the jury regarding tampering; and (5) the video’s admission, without Watson’s ability to confront the confidential informant, violated the Confrontation Clause.

*Hybiscus Food Inc. and Sanjiv Chandan, Individually, and Amir Ali Hanjani, Individually v. Atul Saraswat* - Appellee Atul Saraswat sued Appellants Hybiscus Food, Inc. (HFI) and Sanjiv Chandan. Saraswat alleged Appellants failed to deliver the HFI stock shares in accordance with a sales agreement between Saraswat and Chandan. Saraswat sued HFI and Chandan for breach of contract and multiple intentional torts including common-law fraud, constructive fraud, and statutory fraud. After a bench trial, the court awarded Saraswat a “lump sum amount” of \$54,811.00, but it did not make any express findings or state how the court calculated the damages amount. On appeal, Appellants claim the evidence is legally and factually insufficient to support the judgment.

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