

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 05- 9084

TRANSFER OF CASE FROM THE FIRST TO THE FOURTEENTH COURT OF
APPEALS

ORDERED:

Cause No. 01-05-00135-CV, FCLT LOANS ASSET CORP., SUCCESSOR IN INTEREST TO FCLT LOANS, L.P. v. THE ESTATE OF LOUISE P. BRACHER, is transferred from the Court of Court of Appeals for the First District, Houston, Texas, to the Court of Appeals for the Fourteenth District, Houston, Texas.

The First Court of Appeals will make the necessary order for transfer of said case as directed hereby, and will cause the Clerk of that Court to transfer the original transcript and all filed papers in the case, and certify all orders made, to the Fourteenth Court of Appeals. Upon completion of the transfer, the First Court of Appeals shall provide notice of the transfer to the Supreme Court and the State Office of Court Administration.

Signed this 16th day of May, 2005.


Andrew Weber, Clerk

IN THE TEXAS SUPREME COURT

FCLT LOANS ASSET CORP.,
SUCCESSOR IN INTEREST TO FCLT LOANS, L.P.
Appellant

v.

THE ESTATE OF LOUISE P. BRACHER
Appellee

Fourteenth Court of Appeals
Case No. 14-5-00124-CV

First Court of Appeal
Case No. 01-05-00134-CV

Trial Court Case No. 9807448A

FCLT'S MOTION TO TRANSFER CASE

COMES NOW FCLT Loans Asset Corp., successor in interest to FCLT Loans, L.P. ("FCLT") and files this Motion to Transfer Case from the First Court of Appeals to the Fourteenth Court of Appeals and in support thereof shows as follows:

1. This appeal was a result of an accelerated appeal of the granting of a special appearance by the trial court. On January 4, 2005, the 11th Judicial District Court heard and granted the Special Appearance filed by Theodore Olson. At the conclusion of the hearing, FCLT immediately filed its Notice of Appeal under the current case No. 98-07448.

2. The Trial court refused to stay the case and severed the special appearance and cause of action for Theodore Olson into Cause No. 98-07448A. When this Order was signed, out of abundance of caution, FCLT refiled a Notice of Appeal under the new cause number.

3. The first Notice of Appeal was assigned to the 14th Court of Appeals. The 14th Court of Appeals had heard an earlier appeal of the same case. The clerk of the 14th Court of Appeals

called and requested an Amended Notice of Appeal to show the new cause no of 98-07448A. FCLT filed this Amended Notice of Appeal.

4. All fees have been paid to the 14th Court of Appeals. The record was filed with the 14th Court of Appeals. Since the Trial Court conducted the entire trial on the merits, FCLT filed a Motion to abate Cause No. 14-05-00124-CV until the appeal from the main case could be heard. The 14th Court of Appeals abated this cause.

5. When the accelerated appeal was filed, it was apparently sent to both the 14th and the 1st Court of Appeals. After the 14th Court of Appeals had requested the amended notice of appeal, FCLT received notice from the 1st Court of Appeals regarding the payment of the filing fee and the filing of the record. FCLT's attorney informed the 1st Court of Appeals that the case was pending under an earlier cause number in the 14th Court of Appeals.

6. The 1st Court of Appeals has requested that FCLT file a Motion to Transfer Cause No. 01-05-00135 to the 14th Court of Appeals since this is the same appeal as Cause No. 14-05-00125-CV now pending in the 14th Court of Appeals.

7. This appeal only affects the appeal of the special appearance which is the appeal from Cause No. 98-07448A.

8. The transfer of this case is for administrative purposes and not for delay.

WHEREFORE PREMISES CONSIDERED FCLT requests that this Court transfer Cause No. 01-05-00135-CV to the 14th Court of Appeals and consolidate it with Cause No. 14-05-00124 on the basis that it is the same appeal and for such other and further relief to which it may be entitled.

Respectfully submitted;

LAW OFFICE OF MYNDE S. EISEN, P.C.

Mynde S. Eisen

Digitally signed by Mynde S. Eisen
DN: CN = Mynde S. Eisen, C = US, O
= Law office of Mynde Eisen, P.C.
Date: 2005.05.10 11:56:19 -05'00'

By: /s/ Mynde S. Eisen

State Bar No. 06503950
P.O. Box 630749
Houston, Texas 77263
(713) 266-2955
(713) 266-3008 (fax)
Email: mynde@wt.net

ATTORNEYS FOR DEFENDANT
FCLT LOANS, L.P.

CERTIFICATE OF CONFERENCE

I hereby certify that I spoke with Joe Roden, attorney for Theodore Olson, appellee in the referenced appeal and he does not oppose this Motion to Transfer.

/s/ Mynde S. Eisen
Mynde S. Eisen

Mynde S.
Eisen

Digitally signed by Mynde S. Eisen
DN: CN = Mynde S. Eisen, C =
US, O = Law office of Mynde
Eisen, P.C.
Date: 2005.05.10 11:56:34 -05'00'

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all parties in interest as shown below by depositing the same in the U.S. mail, certified mail, return receipt requested on this 10th day of May, 2005.

//s/ Mynde S. Eisen
Mynde S. Eisen

Mynde S.
Eisen

Digitally signed by Mynde S. Eisen
DN: CN = Mynde S. Eisen, C =
US, O = Law office of Mynde
Eisen, P.C.
Date: 2005.05.10 11:56:43 -05'00'

Rusty Hardin
Joe Roden
Rusty Hardin & Associates
5 Houston Center
1401 McGivney, Suite 2250
Houston, Texas 77010

Robert S. MacIntyre, Jr.
Thompson & Knight, LP
333 Clay St., Suite 3300
Houston, Texas 77002