

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 1, 2016

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, December 6, 2016, beginning at 2:00 p.m., before the following panel of justices: Justice Karen Angelini, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The following case will be presented:

Angela Moore a/k/a Angela Christine Roberts, individually and as representative of the Estate of Alexandra Elisabeth Anderson, deceased, Jesse Amaya and Jason Hays v. Strike, LLC – This appeal arises out of a motor vehicle accident. On appeal, appellants challenge the trial courts summary judgment in favor of appellee, arguing in part that there is evidence appellee exercised control of the truck involved in the accident.

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, December 7, 2016, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following case will be presented:

Julian Guerra v. L&F Distributors, LLC – This is an appeal from a judgment confirming an arbitration award. The issues are: (1) whether the trial court impermissibly modified the arbitration award by rendering judgment for the amount of lost wages awarded by the arbitrator, “less any and all federally required withholdings,” when the arbitration award did not address withholding; (2) whether the appeal is moot because Guerra “accepted the benefit” of the judgment by cashing L&F’s check representing the back wage award, net of taxes withheld; and (3) whether the trial court erred by sanctioning Guerra.

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The following case will be presented:

Higgins v. Higgins - In their divorce decree, Edwin Higgins was awarded \$690,000 in cash to be paid to him by Virginia Higgins. Virginia was awarded certain real property, against which she took a note to secure her obligation to pay Edwin \$690,000. In the underlying lawsuit, Edwin filed a Motion to Enforce and for Contempt, in which he asked the trial court to enforce the property division contained in the couple's divorce decree, and find Virginia in contempt for not paying the debt associated with the 50.63-acre tract awarded to her and not paying a debt owed to the IRS. Virginia answered the motion and filed a petition, in which she alleged Edwin was entitled to receive \$690,000, but following foreclosure on the properties awarded to her, he received \$200,000 in cash and approximately \$800,000 in real estate (the 50.63 acres). Virginia asked for a declaratory judgment that she was entitled to any additional equity in the real property acquired by Edwin in excess of \$490,000 and an equitable lien and owelty lien on the real property acquired by Edwin to the extent the equity exceeded \$490,000. Virginia also asked for a constructive trust and an equitable lien on all equity held by Edwin in excess of \$690,000. Finally, Virginia alleged Edwin was unjustly enriched, she asked the trial court to render further orders to enforce the property division, and she alleged a cause of action for wrongful foreclosure. The trial court rendered summary judgment in favor of Edwin on all of Virginia's claims and granted his motion to enforce. Virginia now appeals.

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