



**COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON**

ORDER

Appellate case name: Jim Kelly, Karl Baldwin, and Wood Master Homes v. Karen Tracy

Appellate case number: 01-18-00913-CV

Trial court case number: 1091620

Trial court: County Court at Law No. 1 of Harris County

On December 17, 2019, after the death of appellee, Karen Tracy, the Court abated this appeal and ordered the trial court to hold a hearing to determine whether any heir or personal representative can substitute for appellee in this appeal, and further whether such heir or representative intended to file an appellee's brief. On February 25, 2020, the Harris County Probate Court No. 2 appointed Gus Tamborello as the Dependent Administrator of appellee's estate. Then, on May 27, 2020, the trial court held the hearing ordered by this Court, at which time Mr. Tamborello represented that he would substitute as appellee in this appeal, and that he intended to hire counsel and file an appellee's brief.

On June 18, 2020, Debra E. Donaldson of The Hudgins Law Firm, filed a Notice of Appearance, advising the Court that she represented Mr. Tamborello for purposes of this appeal. We construe the notice of appearance as a motion to substitute pursuant to Texas Rule of Appellate Procedure 6.5(d), with Ms. Donaldson seeking to substitute as counsel for appellee in place of E.F. Mano DeAyala and Andrew C. Wright.¹

The motion to substitute is **granted**, and the Clerk of this Court is directed to note E.F. Mano DeAyala and Andrew C. Wright's withdrawal as counsel for appellee and

¹ E.F. Mano DeAyala and Andrew C. Wright previously filed a motion to withdraw as counsel for appellee, indicating that they were not authorized to proceed with representation of Ms. Tracy's estate. In our order abating the appeal, the motion to withdraw was denied without prejudice to refile.

substitute Debra E. Donaldson as counsel for appellee on the docket of this Court.

On June 19, 2020, appellants Jim Kelly, Karl Baldwin, and Wood Master Homes filed an unopposed motion to lift the abatement, requesting that this Court lift the abatement, reinstate the appeal, and set a briefing deadline for appellee's brief.

Appellants' motion is **granted** and the case is **reinstated** on the Court's active docket. **Accordingly, appellee's brief is due to be filed no later than 30 days from the date of this order.** See TEX. R. APP. P. 38.6(b).

It is so ORDERED.

Judge's signature: /s/ Evelyn V. Keyes

☒ Acting individually ☐ Acting for the Court

Date: July 28, 2020