

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
March 22, 2012

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, March 29, 2012, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Rebecca Simmons.

The following case will be presented:

Dragon Fish, LLC d/b/a Motif Modern Living, Steven Lora, John Perez, Greektown Restaurants, Ltd. d/b/a Papouli's Greek Grill Restaurants, Freektown Restaurants Management, LC, Nick Anthony, Spa Jane, LLC, Lori Massey a/k/a/ Lori Massey-Brissette, Roger Brissette, All About Shoes, Inc., Latanya Facen, Bobbie & Marriage Facen, Team Spears, LLC d/b/a Sharkey's Cuts for Kids, Todd Spears and Jane Spears v. Santikos Legacy, Ltd., Santikos Income Property, LLC, John L. Santikos, C. Hodges & Associates, PLLC d/b/a Hodges & Associates, C. Hodges Development, Inc., and Charles M. Hodges - Five tenants and their lease guarantors sued the developers of the Legacy Shopping Center and their agents asserting numerous causes of action. The claims were based on representations by the developers and their agents that the Legacy Shopping Center would be a "lifestyle center" and include upscale residential development which arguably would result in a higher traffic volume. The trial court granted partial summary judgment in favor of the developers and their agents based on a disclaimer of reliance provision contained in the leases, and the trial court and the parties agreed to an interlocutory appeal of the ruling. On appeal, the tenants and guarantors contend the disclaimer of reliance provision did not bar their claims, and the trial court erred in striking portions of their summary judgment evidence.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, March 29, 2012, beginning at 10:00 a.m., before the following panel of justices: Justice Karen Angelini, Judge Rebecca Simmons, and Justice Marialyn Barnard.

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The following case will be presented:

SM Energy Company, Huber Energy, L.P. and Rockford Energy Partner II, LLC v. W.H. Sutton, Christopher Sutton, Anita Louise Bell Davies, Janet Lee Smith, Frederick Jackson Bell, Jr., Julie Mueller, and Arctic Royalty Limited Partnership - This appeal involves disputed overriding royalty interests (ORRIs) on oil and gas leases on the Briscoe Ranch. The Suttons sued SM Energy Company and its predecessor lessees in Webb County district court for royalties the Suttons were not paid on leases signed in April 2001. SM Energy and its predecessor lessees argued that they did not pay the royalties because the ORRIs do not apply to their 2001 leases. The trial court decided that the ORRIs apply to the leases, and SM Energy and the other defendants owe the Suttons over \$5 million in unpaid royalties and prejudgment interest. In this appeal, SM Energy asks the Fourth Court of Appeals to reverse the trial court's final judgment and render judgment that the Suttons take nothing on their claims.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, March 29, 2012, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Phylis Speedlin, and Justice Rebecca Simmons.

The following case will be presented:

Crystal City, Texas, Mayor Ricardo S. Lopez, Councilman Richard Diaz, and Councilman Jose Sendejo v. Diana Palacios - This is an accelerated appeal of the trial court's order denying the City of Crystal City's plea to the jurisdiction. The appeal turns on whether provisions in the City's Charter and in the City's Personnel Policies Manual constituted an employment contract between the City and its former city manager, Diana Palacios.

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