

# 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  
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## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, August 10, 2011, beginning at 9:00 a.m., before the following panel of justices: Justice Rebecca Simmons, Justice Steven C. Hilbig, and Justice Marialyn Barnard.

The following case will be presented:

*Lee Tollefson v. The State of Texas* – This is an appeal arising out of Tollefson’s conviction for the offense of murder. The appeal raises challenges under the 4th and 6th Amendments of the United States Constitution, specifically to the warrantless search of Tollefson’s trailer, and the admission of expert testimony based on testing performed by a non-testifying expert.

The Fourth Court of Appeals will hear oral arguments in two appeals on Thursday, August 11, 2011, beginning at 9:00 a.m.

(1) The following case will be presented before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Rebecca Simmons:

*Ryan Prihoda v. State* – The panel limited oral argument in this appeal to a single issue challenging the State’s proof of a prior conviction. The appellant contends that the prior conviction was an element of the offense and not an enhancement provision. The appellant also contends that the evidence is insufficient to prove the prior conviction.

(2) The following case will be presented before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Phylis J. Speedlin:

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*Texas Real Estate Commission v. Mariaora Bucurenciu* - This appeal arises from the trial court’s order directing payment to appellee from the Texas Real Estate Recovery Trust Account (“RERTA”), which is administered by appellant. In an underlying trial, appellee obtained a judgment against William McKinley, who is a salesperson licensed by the Texas Real Estate Commission and a mortgage broker licensed by the Texas Department of Savings and Mortgage Lending. Unable to execute on her judgment, appellee filed with the trial court an application for an order directing payment from the RERTA, and appellee opposed any payment from the fund. Following a hearing, the trial court ruled in favor of appellee. On appeal, the appellant argues (1) the Texas Occupations Code expressly provides that the term “real estate” does not include an interest given as security for the performance of an obligation and (2) this record establishes that the underlying case concerned a mortgage transaction and not a real estate transaction. Thus, the appellant concludes, the RERTA does not cover the type of fraud alleged by appellee to have been committed by McKinley, more specifically, mortgage fraud. The appellant also asserts it is not bound by a trial court finding that McKinley was acting as a real estate “salesperson.”

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