

# Court Advisory

Fourth Court of Appeals  
Cadena-Reeves Justice Center  
300 Dolorosa, Suite 3200  
San Antonio, Texas 78205-3037



Contact: Keith Hottle, Clerk of the Court  
Phone: (210) 335-2510

FOR IMMEDIATE RELEASE  
December 12, 2013

## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, December 17, 2013, beginning at 9:00 a.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following cases will be presented:

*The State of Texas v. Amanda Rodriguez* – The State challenges the trial court’s granting of appellant’s motion for new trial and motion to withdraw plea, arguing there is no evidence appellee’s plea was involuntary.

*Leticia R. Benavides v. Shirley Hale Mathis, as Temporary Guardian of the Estate of Carolos Y. Benavides, Jr., Carlos Y. Benavides III, Tomas Benavides and Ana B. Galo, as Co-Trustees of the Benavides Family Mineral Trust* - In the underlying litigation, Leticia Benavides sued Shirley Hale Mathis, As Temporary Guardian of the Estate of Carlos Y. Benavides, Jr., for tortious interference with a contract and for money had and received. Mathis moved for both a traditional and no-evidence summary judgment on both claims. The trial court rendered judgment in favor of Mathis, and this appeal by Benavides ensued. The issues on appeal center on whether distributions from a family trust are community property or separate property.

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, December 17, 2013, beginning at 1:30 p.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following cases will be presented:

*Rafael Reyes Smith v. The State of Texas* - Appellant pled no contest to murder. In two issues on appeal, appellant contends the trial court erred when it

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denied his motion to suppress his statements to police in violation of the United States Constitution, Texas Constitution, and Article 15.17 of the Texas Code of Criminal Procedure.

*Charles B. Harris v. The State of Texas* - Charles Harris was convicted of capital murder and conspiracy to commit capital murder for killing a police informant. The Penal Code permits the State to charge a person with capital murder, if the person intentionally commits murder while in the course of committing the offense of retaliation. On appeal, Harris contends that the Penal Code provision permitting his conviction for capital murder via retaliation violates the Eighth and Fourteenth Amendments as applied to him. He argues that, because his killing of the police informant constituted the completed offense of both murder and retaliation, the State did not prove that Harris committed additional felonious criminal conduct beyond the act of killing the police informant. Thus, Harris argues, the jury was permitted to convict him of capital murder without finding a constitutionally-required aggravating circumstance to differentiate his offense from non-capital murder

The Fourth Court of Appeals will hear oral arguments in one appeals on Tuesday, December 17, 2013, beginning at 3:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The followings case will be presented:

*Mark A. Cantu v. Guerra & Moore, LLP, Carlos Guerra, J. Michael Moore, and David Lumber* - In a petition for bill of review, Appellant Mark Cantu moved the trial court to set aside its prior judgment against him for \$1.6 million in damages for legal fees in a personal injury lawsuit. He alleged that Appellee Guerra & Moore, LLP, conspired to defraud him of the legal fees he earned in the personal injury case, and their fraud prevented him from presenting his desired defense to their claims. The trial court denied Cantu's petition, and Cantu appeals the trial court's judgment.

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