

FOURTH COURT OF APPEALS OF TEXAS

Allstate County Mutual Insurance Company v. Laura Walker, Brian Briseno and Troy Pace, Jr.

Allstate County Mutual Insurance Co. · No. 04-20-00224-CV · Decided October 27, 2021

SUMMARY

The Fourth Court of Appeals of Texas ordered Allstate County Mutual Insurance Company to file its overdue appellate brief and a written response explaining the delay and why the appellees would not be significantly injured. The court warned that failure to comply could result in dismissal of the appeal for want of prosecution under the Texas Rules of Appellate Procedure.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas
WRITING FOR THE COURT	Rebeca C. Martinez
JURISDICTION	Texas
DECIDED	October 27, 2021
DOCKET	04-20-00224-CV
DISPOSITION	other
PROCEDURAL POSTURE	After reinstating the appeal, the court ordered the appellant to file its overdue brief and explain its failure to timely file the brief and why the appellees would not be significantly injured by the delay.
PRECEDENTIAL VALUE	published
PARTIES	Allstate County Mutual Insurance Company v. Laura Walker, Brian Briseno, Troy Pace, Jr.

TOPICS

[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

[appellate procedure](#)[civil procedure](#)[insurance](#)

QUESTIONS PRESENTED

1. Whether the appellant should be given additional time to file its overdue brief and explain its failure to comply with the briefing deadline.
2. Whether failure to comply with the court's briefing order may result in dismissal of the appeal for want of prosecution.

HOLDINGS

1. The appellant was ordered to file its brief and a written response within fifteen days, explaining its failure to timely file the brief and why the appellees would not be significantly injured; failure to comply would subject the appeal to dismissal for want of prosecution.

KEY QUOTATIONS

“If appellant fails to timely file a brief and the written response, we will dismiss this appeal for want of prosecution.”

FACTUAL BACKGROUND

The order concerns only the appellant's failure to file its appellate brief by the deadline imposed by the court. The appellant had not filed a brief as of October 27, 2021, after the appeal had been reinstated. The court required an explanation for the delay and an explanation why the appellees would not be significantly injured.

PROCEDURAL HISTORY

The appeal was pending in the Fourth Court of Appeals of Texas from the 224th Judicial District Court of Bexar County. On September 15, 2021, the appellate court reinstated the appeal and ordered the appellant's brief filed by October 15, 2021. When no brief was filed, the court issued this order allowing fifteen days for the brief and a written response and warning that failure to comply would result in dismissal for want of prosecution.

DISPOSITION

other

OPINION

Allstate County Mutual Insurance Company v. Laura Walker, Brian Briseno and Troy Pace, Jr.
PER CURIAM.

Fourth Court of Appeals San Antonio, Texas October 27, 2021 No. 04-20-00224-CV

ALLSTATE COUNTY MUTUAL INSURANCE COMPANY,

Appellant v. Laura WALKER, Brian Briseno and Troy Pace, Jr., Appellees From the 224th Judicial District Court, Bexar County, Texas Trial Court No. 2017CI06959 Honorable Cathleen M. Stryker, Judge Presiding

ORDER

On September 15, 2021, we reinstated this appeal on our docket and ordered that appellant's brief was due no later than October 15, 2021. To date, appellant has not filed a brief. Appellant is

therefore ORDERED to file, within fifteen days of the date of this order, its brief and a written response reasonably explaining: (1) its failure to timely file a brief, and (2) why appellee is not significantly injured by appellant's failure to timely file a brief. If appellant fails to timely file a brief and the written response, we will dismiss this appeal for want of prosecution. See TEX. R. APP. P. 38.8(a); see also TEX. R. APP. P. 42.3(c) (allowing involuntary dismissal if an appellant fails to comply with a court order). _____ Rebeca C. Martinez, Chief Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 27th day of October, 2021. _____ MICHAEL A. CRUZ, Clerk of Court