

FOURTEENTH COURT OF APPEALS OF TEXAS

Wendy Miegs v. Trey Bergman and Bergman ADR Group

Miegs v. Bergman · No. 14-19-00167-CV · Decided August 13, 2020

SUMMARY

The Fourteenth Court of Appeals granted the parties' agreed motion to abate the appeal for 60 days so the trial court could cure a jurisdictional defect by modifying the appealed order to make it final. The appeal was treated as closed and removed from the active docket pending filing of a supplemental clerk's record or an appropriate motion to reinstate.

CASE DETAILS

COURT	Fourteenth Court of Appeals of Texas
WRITING FOR THE COURT	Justice Christopher; Justice Wise; Justice Zimmerer
JURISDICTION	Texas
DECIDED	August 13, 2020
DOCKET	14-19-00167-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant appealed from an order of the 270th District Court of Harris County. The court of appeals identified a jurisdictional defect because the appealed order was nonfinal and abated the appeal to permit the trial court to modify the order and make it final.
PRECEDENTIAL VALUE	published
PARTIES	Wendy Miegs v. Trey Bergman, Bergman ADR Group

TOPICS

[appellate procedure](#)[appellate jurisdiction](#)[interlocutory appeal](#)[final judgment rule](#)[civil procedure](#)

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether the appeal should be abated under Texas Rule of Appellate Procedure 27.2 to allow the trial court to modify the nonfinal order and cure the identified jurisdictional defect.

HOLDINGS

1. The agreed motion to abate was granted, and the appeal was abated for 60 days to allow the trial court to sign an order curing the jurisdictional defect and making the appealed order final.

KEY QUOTATIONS

“The appeal is abated, treated as a closed case, and removed from this court’s active docket.”

“See Tex. R. App. P. 27.2 (permitting court of appeals to allow a non-final appealed order “to be modified so as to be made final”).”

FACTUAL BACKGROUND

The appeal involved a nonfinal order entered by the trial court. The court of appeals identified a jurisdictional defect and determined that the trial court should be given an opportunity to modify the order so that it would become final. The parties agreed that the appeal should be abated for 60 days to facilitate that correction.

PROCEDURAL HISTORY

The appeal was pending in the Fourteenth Court of Appeals when the court notified the parties of a jurisdictional defect in a July 29, 2020 letter. The parties jointly moved to abate the appeal for 60 days so the trial court could sign an order curing the defect. The appellate court granted the motion, required a supplemental clerk's record and any related hearing transcript, and removed the appeal from its active docket pending reinstatement.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court was to sign an order curing the jurisdictional defect, if appropriate. Within 60 days, the parties were required to file a supplemental clerk's record containing any such order and a transcript of any related hearing. The appeal could be reinstated upon filing of the supplemental record, an appropriate motion, or the court's own motion.

OPINION

PER CURIAM.

Motion Granted Abatement Order filed August 13, 2020 In The Fourteenth Court of Appeals _____ NO. 14-19-00167-CV _____ WENDY MIEGS, Appellant V. TREY BERGMAN AND BERGMAN ADR GROUP, Appellees On Appeal from the 270th District Court Harris County, Texas Trial Court Cause No. 2017-73032 ABATEMENT ORDER The parties filed an agreed motion to abate this appeal for 60 days to allow the trial court to sign an order to cure the jurisdictional defect identified by this court in its July 29, 2020 letter to the parties.

See Tex. R. App. P. 27.2 (permitting court of appeals to allow a non-final appealed order “to be modified so as to be made final”). Tex. R. App. P. 27.2. The motion is granted. A supplemental clerk’s record containing any order signed by the trial court and a transcript of any hearing held in connection with this order shall be filed with this court within 60 days of the date of this order.

The appeal is abated, treated as a closed case, and removed from this court’s active docket. The appeal will be reinstated on this court’s active docket when the supplemental clerk’s record is filed. The court will also consider an appropriate motion to reinstate the appeal filed by either party, or the court may reinstate the appeal on its own motion. It is the responsibility of any party seeking reinstatement to request a hearing date from the trial court and to schedule a hearing, if a hearing is required, in compliance with this court’s order.

If the parties do not request a hearing, the court coordinator of the trial court shall set a hearing date and notify the parties of such date. PER CURIAM Panel consists of Justices Christopher, Wise, and Zimmerer 2