

TEXAS COURT OF APPEALS, THIRD DISTRICT, AUSTIN

The Shefman Family Limited Partnership v. Los Gallos Mexican Restaurant, LLC

No. 03-25-00406-CV (Tex. App.—Austin June 26, 2026) · No. 03-25-00406-CV · Decided June 26, 2026

SUMMARY

The Texas Court of Appeals, Third District, affirmed a partial-summary-judgment order holding that a tenant’s contractual right of first refusal remained valid and enforceable after the lease’s original term ended and the tenant became a month-to-month holdover tenant. The court concluded that, under Texas law, the prior lease terms continued to govern the holdover tenancy absent an agreement to the contrary. The court therefore upheld the tenant’s right to pursue specific performance and overruled the landlord’s sole issue.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, Austin
WRITING FOR THE COURT	Maggie Ellis; Justices Triana; Justice Kelly; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, Austin
DECIDED	June 26, 2026
DOCKET	03-25-00406-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Permissive interlocutory appeal from a partial summary judgment declaring that the tenant's contractual right of first refusal remained effective during its month-to-month holdover tenancy and ordering the landlord to accept the tenant's offer to purchase the property.
STANDARD OF REVIEW	De novo review of the partial summary-judgment order.
PRECEDENTIAL VALUE	Published opinion; precedential Texas intermediate appellate decision.
PARTIES	The Shefman Family Limited Partnership v. Los Gallos Mexican Restaurant, LLC

TOPICS

- landlord tenant
- contract interpretation
- specific performance real estate
- interlocutory appeal
- appellate procedure

PRACTICE AREAS

contracts

landlord-tenant

real estate

commercial litigation

appellate procedure

QUESTIONS PRESENTED

1. Whether a right of first refusal contained in a commercial lease remains valid and enforceable after the lease term expires and the tenant becomes a month-to-month tenant under the lease's holdover provision.
2. Whether the district court properly granted partial summary judgment declaring that Los Gallos's right of first refusal remained effective, that Los Gallos properly exercised it, and that Shefman had a duty to accept Los Gallos's offer.

HOLDINGS

1. A right of first refusal contained in a commercial lease remains valid and enforceable during a month-to-month tenancy created by the lease's holdover provision.
2. The district court properly declared that Los Gallos's right of first refusal remained effective, that Los Gallos properly exercised it, and that Shefman had a duty to accept Los Gallos's offer.

KEY QUOTATIONS

“We hold that the Los Gallos’s ROFR under Section 5 of the Commercial Lease continued to be valid and enforceable during Los Gallos’s month-to-month tenancy under Section 19.” (at 5)

“We affirm the district court’s partial-summary-judgment order.” (at 6)

FACTUAL BACKGROUND

Shefman owned a commercial strip-center property and leased one storefront to Los Gallos for use as a Mexican restaurant. The lease granted Los Gallos a right of first refusal to purchase the property and provided that, if Los Gallos remained in possession after the lease terminated without a new lease, it would become a tenant from month to month. After the original lease term ended, Los Gallos remained in possession, third parties made an offer to purchase the property, and Los Gallos attempted to exercise its right of first refusal. Shefman rejected Los Gallos's offer, accepted the third-party offer, and later terminated that transaction without selling the property.

PROCEDURAL HISTORY

Los Gallos sued Shefman for breach of contract and specific performance after Shefman rejected Los Gallos's attempted exercise of a right of first refusal and accepted a third-party offer that was later terminated. Both parties moved for summary judgment. The district court denied Shefman's motion, granted Los Gallos's partial motion, and permitted an interlocutory appeal under Texas Civil Practice and Remedies Code section 51.014(d) and Texas Rule of Civil Procedure 168. The court of appeals granted permission to appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Shefman Fam. Ltd. P'ship v. Los Gallos Mexican Rest., LLC, No. 03-25-00406-CV, 2025 WL 2077079, at *1 (Tex. App.—Austin July 24, 2025, order) (per curiam)
- Gym-N-I Playgrounds, Inc. v. Snider, 158 S.W.3d 78, 83 (Tex. App.—Austin 2005), aff'd, 220 S.W.3d 905 (Tex. 2007)
- Elephant Ins. Co., LLC v. Kenyon, 644 S.W.3d 137, 147 (Tex. 2022)
- Carrasco v. Stewart, 224 S.W.3d 363, 368 (Tex. App.—El Paso 2006, no pet.)
- Smyth v. Berman, 242 Cal. Rptr. 3d 336, 345–46 (2019)
- Gym-N-I Playgrounds, Inc. v. Snider, 220 S.W.3d 905, 908–09 (Tex. 2007)
- Coinmach Corp. v. Aspenwood Apartment Corp., 417 S.W.3d 909, 916 (Tex. 2013)
- Lamar Advantage Outdoor Co. v. LaCore Enters., LLC, No. 05-23-00210-CV, 2025 WL 4643338, at *10 n.22 (Tex. App.—Dallas Mar. 11, 2025, pet. filed) (mem. op.)