

**COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI–EDINBURG**

Mariann Bacharach v. Eufemia Garcia

Bacharach · No. 13-14-00693-CV · Decided June 25, 2015

SUMMARY

The Thirteenth Court of Appeals of Texas grants Mariann Bacharach’s motion to file a fourth amended brief. The amendment is limited to issues allegedly raised during the October 1, 2014 hearing on her motion to dismiss, and the court sets deadlines for the amended brief and appellee’s response.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Justice Rodriguez; Justice Garza; Justice Longoria
JURISDICTION	Texas
DECIDED	June 25, 2015
DOCKET	13-14-00693-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant moved for leave to file a fourth amended appellate brief to address issues allegedly raised during an October 1, 2014 hearing on her motion to dismiss.
PRECEDENTIAL VALUE	published
PARTIES	Mariann Bacharach v. Eufemia Garcia

TOPICS

[motion to amend](#) [appellate procedure](#) [civil procedure](#)

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether appellant should be permitted to amend or supplement her appellate brief under Texas Rule of Appellate Procedure 38.7 to address issues allegedly raised at the October 1, 2014 hearing.

HOLDINGS

- 1. The court granted appellant leave to file a fourth amended brief, if she chose to do so, but limited the amendment to issues appellant claimed were raised at the October 1, 2014 hearing on her motion to dismiss.

KEY QUOTATIONS

“[a] brief may be amended or supplemented whenever justice requires, on whatever reasonable terms the court may prescribe.” (2)

FACTUAL BACKGROUND

The court reporter filed a supplemental record containing only appellant's direct examination from an October 1, 2014 hearing on her motion to dismiss. Appellant filed an original brief and three amended briefs, and sought permission to file a fourth amended brief to reflect issues she claimed were raised at that hearing.

PROCEDURAL HISTORY

The appeal was pending in the Thirteenth Court of Appeals after proceedings in the 389th District Court of Hidalgo County. After the supplemental reporter's record was filed, appellant submitted several amended briefs; the third amended brief complied with the appellate court's requirements but did not include issues appellant claimed arose from her testimony at the October 1 hearing. The appellate court granted leave for appellant to file a fourth amended brief on limited terms and set briefing deadlines.

DISPOSITION

other

OPINION

PER CURIAM.

NUMBER 13-14-00693-CV COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI - EDINBURG
MARIANN
BACHARACH, Appellant, v. EUFEMIA GARCIA, Appellee.
On appeal from the
389th District Court of Hidalgo County, Texas
ORDER Before
Justices Rodriguez, Garza, and Longoria Order Per Curiam This cause is before the Court on
appellant’s motion to file an amended brief “to reflect issues brought up in the [October 1, 2014]
trial court hearing” on her motion to dismiss.

On June 1, 2015, this Court received appellant’s original brief. On June 3, 2015, the court reporter filed a supplemental record, which included only the direct examination of appellant at the

October 1, 2014 hearing on her motion to dismiss. Subsequently, appellant filed three amended briefs in an effort to comply with the rules of this Court. Her third amended brief complied, and we marked it filed on June 22, 2015.

We have reviewed appellant's third amended brief and have found that it does not include issues, if any, raised by her testimony at the October 1 hearing. Texas Rule of Appellate Procedure 38.7 provides that "[a] brief may be amended or supplemented whenever justice requires, on whatever reasonable terms the court may prescribe." TEX. R. APP. P. 38.7.

After due consideration of appellant's motion, the timing of the filing of the supplemental reporter's record, and the compliance issues that have now been resolved, the Court has determined that appellant's motion should be granted.

Accordingly, the Court grants appellant's motion to file her fourth amended brief should she choose to do so, but only to reflect issues that appellant claims were raised at the October 1, 2014 hearing on her motion to dismiss. Appellant's fourth amended brief, if any, is due on July 6, 2015. No further extensions will be granted. Appellee's brief will be due on July 27, 2015.

IT IS SO ORDERED. PER CURIAM Delivered and filed the 25th day of June, 2015. 2