

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Deborah Morales a/k/a Deborah Lund v. Terry Walker, Kristy Walker, Carlos Gracian, Vicki Gracian, Jason Flewellin, and Tiffeny Flewellin

No. 04-24-00867-CV (Tex. App.—San Antonio Apr. 30, 2026) · No. No. 04-24-00867-CV · Decided April 30, 2026

SUMMARY

The Fourth Court of Appeals of Texas considered Deborah Morales’s appeal from a judgment finding her liable under Texas Civil Practice and Remedies Code section 12.002 for filing a fraudulent affidavit of adverse possession concerning a private road. The court rejected or held waived her challenges to the sufficiency of the evidence, damages awarded to Jason Flewellin, exclusion of a master in chancery report, the jury charge, and attorney’s fees. The court modified the judgment to correct the post-judgment interest rate to 7.75% and affirmed it as modified.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Adrian A. Spears II; Irene Rios; Lori Massey Brissette
JURISDICTION	Fourth Court of Appeals of Texas, San Antonio
DECIDED	April 30, 2026
DOCKET	No. 04-24-00867-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a jury trial, the trial court entered judgment holding Morales liable under Texas Civil Practice and Remedies Code section 12.002 for filing a fraudulent affidavit of adverse possession and awarding each appellee \$10,000 in statutory damages, attorney's fees to the Walkers, and costs. Morales appealed. The court of appeals modified the post-judgment interest rate and affirmed the judgment as modified.
STANDARD OF REVIEW	Legal sufficiency was reviewed under the usual no-evidence standard; a judgment notwithstanding the verdict was reviewed under a no-evidence standard; evidentiary rulings were reviewed for abuse of discretion; preservation of jury-charge error and evidentiary complaints was governed by the applicable Texas procedural rules.

PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Deborah Morales a/k/a Deborah Lund v. Terry Walker, Kristy Walker, Carlos Gracian, Vicki Gracian, Jason Flewellin, Tiffeny Flewellin

TOPICS

title disputes adverse possession damages attorney fees preservation of error

PRACTICE AREAS

real estate civil procedure appellate procedure remedies evidence

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to establish that Morales violated Texas Civil Practice and Remedies Code section 12.002 by filing the affidavit with knowledge that it was fraudulent, intent that it receive legal effect, and intent to cause harm.
2. Whether the trial court properly awarded \$10,000 in statutory damages to Jason Flewellin despite his absence from trial.
3. Whether the trial court abused its discretion by excluding or redacting portions of the master in chancery's report.
4. Whether Morales preserved her complaint that the jury charge omitted essential Chapter 12 elements and improperly grouped the appellees.
5. Whether Morales preserved her challenges to the admission, segregation, and legal sufficiency of the evidence supporting the Walkers' attorney's-fees award.
6. Whether the trial court used the correct post-judgment interest rate.

HOLDINGS

1. The evidence was legally sufficient for the jury to find that Morales violated Texas Civil Practice and Remedies Code section 12.002 by filing a fraudulent affidavit of adverse possession with the requisite knowledge and intent.
2. The award of \$10,000 in statutory damages to Jason Flewellin was supported by the record, and Morales waived any complaint concerning his inclusion in the jury charge by failing to object or move to dismiss his claims.
3. The trial court did not abuse its discretion in excluding or requiring redaction of the master in chancery's report, and Morales failed to preserve the complaint because she neither introduced the redacted report nor made an offer of proof showing the substance and harm of the excluded evidence.
4. Morales did not preserve her complaints that the jury charge omitted essential Chapter 12 elements or improperly grouped the appellees because her attorney agreed to the charge and made no timely, specific objection or request.

5. Morales waived her complaints concerning the admission, segregation, and legal sufficiency of the evidence supporting the Walkers' attorney's-fees award.
6. The trial court's judgment was modified to provide for a post-judgment interest rate of 7.75%; the judgment was affirmed as modified.

KEY QUOTATIONS

“Chapter 12 allows an award of statutory damages without evidence of actual damages.” (-6-)

“Therefore, we modify the trial court’s judgment to provide for a post-judgment interest rate of 7.75%. As modified, the trial court’s judgment is affirmed.” (-14-)

FACTUAL BACKGROUND

Morales recorded an affidavit asserting that she solely owned by adverse possession a private road that provided the only access to the Walkers' and Morales's properties and access to neighboring properties. The evidence showed that the appellees and other neighbors used the road and that Morales took actions to exclude them, including placing obstacles and notices on the road. A title-company report indicated that the subdivision developer, rather than Morales, was the owner of the private road. Morales later revoked the affidavit, but the appellees continued their claims because they had incurred substantial fees and lacked assurance that a similar document would not be filed.

PROCEDURAL HISTORY

Morales recorded an affidavit claiming sole ownership by adverse possession of a private road. The appellees sued for declaratory relief and under Chapter 12 of the Texas Civil Practice and Remedies Code. Following a jury trial, the trial court entered judgment for the appellees. On appeal, Morales challenged legal sufficiency, the award to Jason Flewellin, exclusion of a master in chancery report, the jury charge, attorney's fees, and the post-judgment interest rate.

DISPOSITION

affirmed

CASES CITED

- Graham Cent. Station, Inc. v. Pena, 442 S.W.3d 261, 263 (Tex. 2014)
- MedFin Manager, LLC v. Stone, 613 S.W.3d 624, 627 (Tex. App.—San Antonio 2020, no pet.)
- McAlester Fuel Co. v. Smith Int’l, Inc., 257 S.W.3d 732, 737 (Tex. App.—Houston [1st Dist.] 2008, pet. denied)
- Bank of Am., N.A. v. Eisenhauer, 474 S.W.3d 264, 265 (Tex. 2015)
- Nationstar Mortg. LLC v. Barefoot, 654 S.W.3d 440, 453 (Tex. App.—Houston [14th Dist.] 2021, pet. denied)
- Taylor Elec. Servs. Inc. v. Armstrong Elec. Supply Co., 167 S.W.3d 522, 528 (Tex. App.—Fort Worth 2005, no pet.)

- Abraham v. Acton, 697 S.W.3d 201, 212 (Tex. App.—El Paso 2023, no pet.)
- Roman v. Ramirez, 573 S.W.3d 341, 351 (Tex. App.—El Paso 2019, pet. denied)
- Nat'l Liability & Fire Ins. Co. v. Allen, 15 S.W.3d 525, 527-28 (Tex. 2000)
- United Indep. Sch. Dist. v. U.S. Trailer Relocators, LLC, No. 04-17-00281-CV, 2018 WL 2943821, at *5 (Tex. App.—San Antonio June 13, 2018, no pet.)
- In re N.R.C., 94 S.W.3d 799, 806 (Tex. App.—Houston [14th Dist.] 2002, pet. denied)
- Railroad Comm'n v. Gulf Energy Expl. Corp., 482 S.W.3d 559, 571 (Tex. 2016)
- Burbage v. Burbage, 447 S.W.3d 249, 256 (Tex. 2014)
- State Dep't of Highways & Pub. Transp. v. Payne, 838 S.W.2d 235, 241 (Tex. 1992)
- RSL Funding, LLC v. Metro. Life Ins. Co., 728 S.W.3d 194, 221 (Tex. App.—Houston [1st Dist.] 2025, no pet.)
- Green Int'l, Inc. v. Solis, 951 S.W.2d 384, 389 (Tex. 1997)
- Hazel v. Lonesome Ranch Prop. Owners Ass'n, 656 S.W.3d 468, 499 (Tex. App.—El Paso 2022, no pet.)
- Lesikar v. Rappeport, 33 S.W.3d 282, 317 (Tex. App.—Texarkana 2000, pet. denied)
- In re D.T., 625 S.W.3d 62, 75 n.8 (Tex. 2021)
- Cecil v. Smith, 804 S.W.2d 509, 510-11 (Tex. 1991)
- Aero Energy, Inc. v. Circle C Drilling Co., 699 S.W.2d 821, 822 (Tex. 1985)