

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Thomas T. Headen III v. Abundant Life Therapeutic Services Texas, LLC, et al.

Headen · No. 05-22-00293-CV · Decided September 9, 2022

SUMMARY

The Fifth District Court of Appeals at Dallas denied Abundant Life Therapeutic Services Texas, LLC's motion to dismiss an appeal based on the appellant's alleged failure to comply with a post-judgment discovery order. The court also reset the deadline for the appellant's brief to October 3, 2022.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
JURISDICTION	Texas
DECIDED	September 9, 2022
DOCKET	05-22-00293-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appellate motion to dismiss an appeal or issue notice of intent to dismiss based on alleged noncompliance with a trial court post-judgment discovery order.
STANDARD OF REVIEW	Discretionary dismissal under Texas Rule of Appellate Procedure 42.3(c).
PRECEDENTIAL VALUE	published
PARTIES	Thomas T. Headen III v. Abundant Life Therapeutic Services Texas, LLC, et al.

TOPICS

appellate procedure

discovery dispute

civil procedure

PRACTICE AREAS

Appellate procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals should dismiss the appeal under Texas Rule of Appellate Procedure 42.3(c) based on appellant's alleged failure to comply with the trial court's post-judgment discovery order.
2. Whether the Court should issue notice that the appeal would be dismissed unless appellant complied with the trial court's post-judgment order within ten days.

HOLDINGS

1. The Court of Appeals denied Abundant Life's motion to dismiss the appeal and declined to issue notice of intent to dismiss.
2. The Court reset the deadline for appellant's brief to October 3, 2022.

FACTUAL BACKGROUND

The trial court entered a final judgment dismissing appellant's claims against appellees and awarding attorney's fees and costs. After the appeal was filed, appellee Abundant Life alleged that appellant had failed to comply with the trial court's post-judgment discovery order. Abundant Life sought dismissal of the appeal or notice that dismissal would follow unless appellant complied within ten days.

PROCEDURAL HISTORY

The Dallas County District Court entered a final judgment dismissing Headen's claims and awarding appellees attorney's fees and costs. During the appeal, Abundant Life moved to dismiss the appeal under Texas Rule of Appellate Procedure 42.3(c), or alternatively to require Headen to comply with the trial court's post-judgment order within ten days. The Court of Appeals denied the motion and reset the deadline for Headen's appellate brief to October 3, 2022.

DISPOSITION

other

OPINION

Thomas T. Headen III v. Abundant Life Therapeutic Services Texas, LLC
PER CURIAM.

Order entered September 9, 2022 In The Court of Appeals Fifth District of Texas at Dallas No. 05-22-00293-CV THOMAS T. HEADEN III, Appellant V.

ABUNDANT LIFE THERAPEUTIC SERVICES TEXAS, LLC, ET AL.,

Appellees On Appeal from the 68th Judicial District Court Dallas County, Texas Trial Court Cause No. DC-18-15576

ORDER

This is an appeal from the trial court's final judgment dismissing appellant's claims against appellees and awarding appellees attorney's fees and costs. Before the Court is appellee Abundant

Life Therapeutic Services Texas, LLC's motion to dismiss the appeal based on appellant's alleged failure to comply with the trial court's post-judgment discovery order. Abundant Life asks in the alternative that the Court issue notice that the appeal will be dismissed unless appellant complies with the trial court's post-judgment order within ten days. Abundant Life moves to dismiss or issue notice of intent to dismiss under Texas Rule of Appellate Procedure 42.3(c), a discretionary rule. See TEX. R. APP. P. 42.3(c) (providing that appellate court may dismiss appeal based on appellant's failure to comply with court order). We DENY the motion. On the Court's own motion, we RESET the deadline for the filing of appellant's brief to October 3, 2022.

/s/ BONNIE LEE GOLDSTEIN

JUSTICE