

COURT OF APPEALS, SECOND APPELLATE DISTRICT OF TEXAS AT FORT WORTH

Brookfield Funding, LLC, and Vista Pointe Funding, LLC v. Ramey & King Insurance Associates, Inc.

No. 02-25-00201-CV · No. 02-25-00201-CV · Decided December 11, 2025

SUMMARY

The Texas Second Court of Appeals considered a restricted appeal from a no-answer default judgment in favor of Ramey & King Insurance Associates, Inc. The court held that the returns of service were defective because they listed only the citations and did not state that the petitions were served, as required by the Texas Rules of Civil Procedure. The court reversed the default judgment and remanded the case for further proceedings.

CASE DETAILS

COURT	Court of Appeals, Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Brian Walker; Womack; Wallach; Walker
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	December 11, 2025
DOCKET	02-25-00201-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Restricted appeal from a no-answer default judgment entered by the County Court at Law No. 2 of Denton County, Texas.
STANDARD OF REVIEW	In a restricted appeal, the appellant must establish the statutory and procedural requirements for the appeal and show error apparent on the face of the record. The face of the record includes all papers filed in the appeal, including the clerk's and reporter's records. Service of process is reviewed under Texas's strict-compliance doctrine.
PRECEDENTIAL VALUE	Published memorandum opinion of the Texas Court of Appeals, Second Appellate District at Fort Worth.
PARTIES	Brookfield Funding, LLC, Vista Pointe Funding, LLC v. Ramey & King Insurance Associates, Inc.

TOPICS

service of process

default judgment

writ of certiorari

appellate procedure

civil procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Commercial litigation

QUESTIONS PRESENTED

1. Whether the returns of service established strict compliance with Texas service requirements when they listed only the citation as the document served and did not state that the petition was served.
2. Whether the trial court's no-answer default judgment could stand in a restricted appeal when defective service appeared on the face of the record.
3. Whether the appellate court could consider an email attached to the appellee's brief that was not part of the appellate record or before the trial court.

HOLDINGS

1. The returns of service were defective because they did not state that the petition was served with the citation.
2. The default judgment could not stand because defective service constituted error apparent on the face of the record.
3. The court could not consider the email because it was not part of the appellate record and was not before the trial court when it rendered the default judgment.

KEY QUOTATIONS

“For well over a century the rule has been firmly established in this state that a default judgment cannot withstand direct attack by a defendant who complains that he was not served in strict compliance with applicable requirements.” (at 3)

“Because the returns of service do not state that the petition was served with the citation, they are defective.” (at 4)

“The strict-compliance doctrine considers whether the record shows that the exact procedural requirements are met, not whether the intended party received notice of the lawsuit.” (at 4)

FACTUAL BACKGROUND

Ramey & King sued Brookfield Funding and Vista Pointe Funding for allegedly unpaid insurance-related services, asserting breach-of-contract and sworn-account claims. Citations were issued for both Appellants, and the returns of service listed only the citation under a section labeled "Documents"; neither return stated that the petition was served. Appellants did not answer or appear, and the trial court entered a no-answer default judgment for \$47,062 in damages plus attorney's fees and costs.

PROCEDURAL HISTORY

Ramey & King sued Appellants for breach of contract and suit on sworn account. After Appellants did not answer or otherwise appear, the trial court entered a default judgment awarding Ramey & King \$47,062 in damages, attorney's fees, and costs. Appellants brought a restricted appeal, arguing that the returns of service did not show that the petition was served with the citations.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the trial court for further proceedings consistent with the opinion.

CASES CITED

- Alexander v. Lynda's Boutique, 134 S.W.3d 845, 848 (Tex. 2004)
- Ex parte E.H., 602 S.W.3d 486, 497 (Tex. 2020)
- Norman Commc'ns v. Tex. Eastman Co., 955 S.W.2d 269, 270 (Tex. 1997)
- Wilson v. Dunn, 800 S.W.2d 833, 836 (Tex. 1990)
- Union Pac. Corp. v. Legg, 49 S.W.3d 72, 78 (Tex. App.—Austin 2001, no pet.)
- Primate Constr., Inc. v. Silver, 884 S.W.2d 151, 152-53 (Tex. 1994)
- In re D.D.J., 136 S.W.3d 305, 309 n.3 (Tex. App.—Fort Worth 2004, no pet.)
- Greystar, LLC v. Adams, 426 S.W.3d 861, 865 (Tex. App.—Dallas 2014, no pet.)
- Tex. Dep't of Pub. Safety v. J.W.M., No. 03-17-00792-CV, 2018 WL 6519696, at *2 (Tex. App.—Austin Dec. 12, 2018, no pet.) (mem. op.)
- Texaco, Inc. v. Cent. Power & Light Co., 925 S.W.2d 586, 590 (Tex. 1996)
- Awev Holding, Inc. v. County of Williamson, No. 01-18-00069-CV, 2019 WL 1119395, at *2 (Tex. App.—Houston [1st Dist.] Mar. 12, 2019, no pet.) (mem. op.)
- Furst v. Smith, 176 S.W.3d 864, 871-72 (Tex. App.—Houston [1st Dist.] 2005, no pet.)

OPINION

PER CURIAM.

In the Court of Appeals Second Appellate District of Texas at Fort Worth
_____ No. 02-25-00201-CV _____

BROOKFIELD FUNDING, LLC AND VISTA POINTE FUNDING, LLC, Appellants V. RAMEY & KING INSURANCE ASSOCIATES, INC., Appellee On Appeal from County Court at Law No. 2 Denton County, Texas Trial Court No. CV-2024-03979 Before Womack, Wallach, and Walker, JJ. Memorandum Opinion by Justice Walker MEMORANDUM OPINION Appellants Brookfield Funding, LLC and Vista Pointe Funding, LLC bring this restricted appeal from a no-answer default judgment entered in favor of Appellee Ramey & King Insurance Associates, Inc.

Appellants assert that the trial court erred by granting Ramey King's motion for default judgment because they were not properly served with process.

Because we agree that service was defective, we reverse the trial court's default judgment. I. BACKGROUND On November 15, 2024, Ramey King filed suit against Appellants, alleging claims for breach of contract and suit on sworn account. Specifically, the petition alleged that Ramey King had provided insurance-related services to Appellants and had invoiced them for these services but that Appellants had failed to pay the amounts due.

On November 15, 2024, citations were issued for both Appellants. The returns of service were filed on November 25, 2024. The service returns' descriptions of what was served are limited to a single section labeled "Documents," and both returns list only the "[c]itation" in this section. Neither return references the petition, much less states that it was served with the citation.

Appellants did not answer or otherwise appear. On December 10, 2024, the trial court signed a default judgment awarding Ramey King \$47,062 in damages plus attorney's fees and court costs. This restricted appeal followed. 2 II. SCOPE AND STANDARD OF REVIEW To prevail in a restricted appeal, an appellant must establish that (1) it filed notice of the restricted appeal within six months after the judgment was signed, (2) it was a party to the underlying lawsuit, (3) it did not participate in the hearing that resulted in the judgment complained of and did not timely file any postjudgment motions or requests for findings of fact and conclusions of law, and (4) error is apparent on the face of the record.

See Tex. R. App. P. 26.1(c), 30; *Alexander v. Lynda's Boutique*, 134 S.W.3d 845, 848 (Tex. 2004); see also *Ex parte E.H.*, 602 S.W.3d 486, 497 (Tex. 2020) (confirming that, unlike the first three restricted-appeal requirements, the error-on-the-face-of-the-record requirement is not jurisdictional).

For purposes of a restricted appeal, the face of the record consists of all the papers on file in the appeal, including the clerk's record and the reporter's record. *Norman Commc'ns v. Tex. Eastman Co.*, 955 S.W.2d 269, 270 (Tex. 1997). III. DISCUSSION Here, it is undisputed that the first three restricted-appeal elements are satisfied; the only question is whether there is error on the face of the record.¹ See *Alexander*, 1 Although Ramey King concedes that Appellants have satisfied the first three restricted-appeal elements, it argues that we should nevertheless refuse to consider the merits of their restricted appeal because they failed to "address the[] default judgment at the trial[-]court level" even though they "were aware of the judgment against them well within the timeline" that would have allowed them to do so by, for example, filing a motion for new trial.

Ramey King attached to its brief an email from Appellants' former counsel purportedly showing that Appellants were aware of the default judgment as early as December 31, 2024—just three weeks after it was signed. 3 134 S.W.3d at 848.

In their sole issue, Appellants contend that the record contains facial error because the returns of service are defective. We agree. “For well over a century the rule has been firmly established in this state that a default judgment cannot withstand direct attack by a defendant who complains that he was not served in strict compliance with applicable requirements.” *Wilson v. Dunn*, 800 S.W.2d 833, 836 (Tex.

1990). The strict-compliance doctrine considers whether the record shows that the exact procedural requirements are met, not whether the intended party received notice of the lawsuit. *Union Pac. Corp. v. Legg*, 49 S.W.3d 72, 78 (Tex. App.—Austin 2001, no pet.).

The return of service is not a trivial, formulaic document; rather, it is prima facie evidence of proper service. See *Primate Constr. Inc. v. Silver*, 884 S.W.2d 151, 152–53 (Tex. 1994). The party seeking service is responsible for ensuring that proof of proper service is completed and reflected in the record. See *id.* at 153.

In a restricted appeal, “[t]here are no presumptions in favor of [the] valid issuance, service, and return of citation.” *Id.* at 152. But because this email is not part of the record and was not before the trial court when it rendered the default judgment, we cannot consider it. See *In re D.D.J.*, 136 S.W.3d 305, 309 n.3 (Tex. App.—Fort Worth 2004, no pet.); see also *Greystar, LLC v. Adams*, 426 S.W.3d 861, 865 (Tex.

App.—Dallas 2014, no pet.) (“It is well- established an appellate court may not consider matters outside the record, which includes documents attached to a brief as an exhibit or an appendix that were not before the trial court.”).

In any event, a restricted appeal is not an equitable proceeding. *Tex. Dep’t of Pub. Safety v. J.W.M.*, No. 03-17-00792-CV, 2018 WL 6519696, at *2 (Tex. App.—Austin Dec. 12, 2018, no pet.) (mem. op.) (citing *Texaco, Inc. v. Cent. Power & Light Co.*, 925 S.W.2d 586, 590 (Tex. 1996)).

Thus, Appellants are not required to show diligence in order to have their complaints heard by this court. See *id.* 4 Texas Rule of Civil Procedure 106(a)(1) requires that a defendant be served with a copy of both the citation and the petition. Tex. R. Civ. P. 106(a)(1). Rule 107 reinforces this requirement by dictating that the return of service must include “a description of what was served.” Tex. R. Civ.

P. 107(b)(3). Appellants complain that the returns of service filed in the trial court reflect that the “[c]itation” was the only “[d]ocument” that was served; the returns do not state that the petition was served with the citation. This is a valid complaint.

Because the returns of service do not state that the petition was served with the citation, they are defective.² See *Avev Holding, Inc. v. Cnty. of Williamson*, No. 01-18-00069-CV, 2019 WL

1119395, at *2 (Tex. App.—Houston [1st Dist.] Mar. 12, 2019, no pet.) (mem. op.); *Furst v. Smith*, 176 S.W.3d 864, 871–72 (Tex. App.—Houston [1st Dist.] 2005, no pet.); cf. *Primate Constr., Inc.*, 884 S.W.2d at 152–53 (holding that service was defective because citation recited that copy of second amended petition had been 2 Ramey King, citing to an email attached to its brief, claims that “[e]ven if [Appellants] were not served with the petition along with the citation, they already had the petition in their possession.” But as discussed above, we cannot consider documents that are not part of the record and that were not before the trial court when it rendered the default judgment.

See *Greystar, LLC*, 426 S.W.3d at 865; *D.D.J.*, 136 S.W.3d at 309 n.3. Thus, we cannot consider the email upon which Ramey King relies to show that Appellants received a copy of the petition. Further, the strict-compliance doctrine considers whether the record shows that the exact procedural requirements have been satisfied—not whether the intended party received notice of the lawsuit.

Union Pac. Corp., 49 S.W.3d at 78. Thus, whether Ramey King previously transmitted the petition to Appellants’ counsel has no bearing on Appellants’ sole issue. 5 served but sworn return of service recited that original petition—which had not yet named defendant—had actually been served).

Because this defect alone is sufficient to reverse the default judgment, we need not—and therefore do not—address any other complaints that Appellants raise about the returns of service. See Tex. R. App. P. 47.1; *Aveo Holding, Inc.*, 2019 WL 1119395, at *2.

We sustain Appellants’ sole issue. IV. CONCLUSION Having sustained Appellants’ sole issue and having determined that there is error on the face of the record, we reverse the trial court’s default judgment and remand this case to the trial court for further proceedings consistent with this opinion. /s/ Brian Walker Brian Walker Justice Delivered: December 11, 2025 6