

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS AT HOUSTON

Lee-Var, Inc. d/b/a Palmer of Texas Tanks, Inc. v. M-I Overseas Limited

Lee-Var · No. 01-17-00238-CV · Decided October 19, 2017

SUMMARY

The Texas Court of Appeals for the First District of Houston continued the abatement of the appeal pending finalization of the parties' settlement agreement. The court ordered the parties to file a motion or status report within 14 days and stated that the appeal remained abated and removed from the court's active docket.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas at Houston
WRITING FOR THE COURT	Terry Jennings
JURISDICTION	Texas
DECIDED	October 19, 2017
DOCKET	01-17-00238-CV
DISPOSITION	other
PROCEDURAL POSTURE	The appeal was previously abated by agreement of the parties while they finalized a settlement. After the parties failed to provide the required status report or motion, the court issued an order continuing the abatement and directing them to respond within 14 days.
PRECEDENTIAL VALUE	published
PARTIES	Lee-Var, Inc. d/b/a Palmer of Texas Tanks, Inc. v. M-I Overseas Limited

TOPICS

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

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. What procedural action should the appellate court take after the parties failed to respond to its prior abatement order while settlement finalization remained pending?

HOLDINGS

1. The court continued the abatement, treated the appeal as a closed case, removed it from the active docket, and directed the parties to file within 14 days a motion to reinstate and dismiss, a motion to reinstate and proceed, or a status report.

KEY QUOTATIONS

“The appeal remains abated, treated as a closed case, and removed from this Court’s active docket.”

FACTUAL BACKGROUND

The parties represented that they were finalizing a settlement agreement, leading the appellate court to abate the appeal by agreed motion. The parties failed to comply with the court's deadline for reporting on the settlement or requesting reinstatement. The court therefore continued the abatement and warned that the appeal could be reinstated if the parties did not respond.

PROCEDURAL HISTORY

The appeal arose from trial court cause number 2014-01813 in the 333rd District Court of Harris County. On August 3, 2017, the appellate court granted the parties' agreed motion to abate the appeal pending finalization of a settlement agreement and directed the parties to file a motion or status report by September 18, 2017. The parties did not respond, so the court ordered them to file the specified motion or report within 14 days and kept the appeal abated and off the active docket.

DISPOSITION

other

OPINION

PER CURIAM.

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS AT HOUSTON ORDER OF CONTINUING ABATEMENT Appellate case name: Lee-Var, Inc. d/b/a Palmer of Texas Tanks, Inc. v. M-I Overseas Limited Appellate case number: 01-17-00238-CV Trial court case number: 2014-01813 Trial court: 333rd District Court of Harris County On August 3, 2017, we granted the parties agreed motion to abate the appeal pending finalization of their settlement agreement and abated the appeal.

And, we directed the parties to file a motion to reinstate and dismiss the appeal, a motion to reinstate and proceed with the appeal, or a report advising the Court of the status of the proceedings no later than September 18, 2017.

The parties have not responded. Accordingly, we direct the parties to file a motion to reinstate and dismiss the appeal, a motion to reinstate and proceed with the appeal, or a report advising the Court of the status of the proceedings no later 14 days from the date of this order. If the parties do not respond as directed, the case may be reinstated on the Court's active docket and the appeal will proceed under the applicable Texas Rules of Appellate Procedure.

The appeal remains abated, treated as a closed case, and removed from this Court's active docket. It is so ORDERED. Judge's signature: /s/ Terry Jennings Acting individually Acting for the Court Date: October 19, 2017