

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Charles Louis Hogan, Jr. v. Kenneth Everett

No. 04-25-00555-CV (Tex. App.—San Antonio June 3, 2026) · No. No. 04-25-00555-CV · Decided June 3, 2026

SUMMARY

The Texas Fourth Court of Appeals affirmed summary judgment for Kenneth Everett on Charles Louis Hogan, Jr.'s breach-of-contract claim arising from an alleged oral agreement to convey a 66-acre tract. The court held that the trial court acted within its discretion in disregarding Hogan's incomplete and untimely affidavit. It reversed summary judgment on Hogan's fraud, unjust-enrichment, and declaratory-judgment claims because Everett's no-evidence motion lacked the required specificity and his traditional summary-judgment evidence did not establish entitlement to judgment as a matter of law, and it remanded for further proceedings.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Lori I. Valenzuela, Justice; Irene Rios, Justice; Velia J. Meza, Justice
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	June 3, 2026
DOCKET	No. 04-25-00555-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Hogan appealed from a summary judgment granting Everett judgment on all of Hogan's claims.
STANDARD OF REVIEW	The exclusion of Hogan's affidavit was reviewed for abuse of discretion. Summary judgment was reviewed de novo. The court reviewed the no-evidence motion under the no-evidence standard and, because the motion was hybrid, considered the traditional standard if a claim failed under the no-evidence standard. Under the no-evidence standard, the nonmovant had to produce at least a scintilla of evidence raising a genuine issue of material fact; under the traditional standard, the movant had to establish that no genuine issue of material fact existed and that it was entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is identified as published in the supplied metadata.

PARTIES

Charles Louis Hogan, Jr. v. Kenneth Everett

TOPICS

summary judgment

civil procedure

appellate procedure

breach of contract

fraud

PRACTICE AREAS

civil procedure

contracts

real estate

remedies

torts

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by refusing to consider the complete version of Hogan's affidavit.
2. Whether Everett's no-evidence motion for summary judgment sufficiently specified the challenged elements of Hogan's breach-of-contract, fraud, unjust-enrichment, and declaratory-judgment claims.
3. Whether Everett was entitled to traditional summary judgment on Hogan's fraud, unjust-enrichment, and declaratory-judgment claims.

HOLDINGS

1. The trial court did not abuse its discretion by declining to consider the late-filed portions of Hogan's affidavit after Hogan failed to comply with the court's deadline for filing the complete affidavit.
2. The motion sufficiently challenged the essential element of a valid oral contract, and Hogan failed to produce more than a scintilla of evidence raising a genuine issue of material fact on that element.
3. The motion was insufficient as a matter of law because it made only generalized assertions that Hogan had no evidence to support those claims and did not identify the challenged elements.
4. Everett was not entitled to traditional summary judgment because his evidence did not conclusively disprove an element of any of those claims or establish his entitlement to judgment as a matter of law.

KEY QUOTATIONS

“Because we find the trial court acted within its discretion in not considering Hogan’s complete affidavit when rendering summary judgment, we need not address these arguments.” (at 5)

“The substance of the motion and not its form or the attachment of evidence determines whether the motion is a no-evidence, traditional, or combined motion.” (at 8)

“This is the precise kind of “conclusory” or “general no-evidence” challenge which the rule is written to prohibit.” (at 9)

“When viewed in light most favorable to Hogan as the nonmovant, this evidence does not establish that Everett has conclusively disproved any of the above listed fraud elements as a matter of law.” (at 10)

FACTUAL BACKGROUND

In August 2020, Hogan sold Everett a 136-acre tract for approximately \$150,000 and executed a warranty deed. Hogan later alleged that the parties also orally agreed that Everett would deed a 66-acre tract back to Hogan after Everett's divorce, while Everett denied that agreement. Hogan sued for breach of contract, fraud, unjust enrichment, and declaratory relief. In opposing Everett's summary-judgment motion, Hogan filed an incomplete affidavit and an audio recording, but he did not timely file the complete affidavit despite receiving leave to do so.

PROCEDURAL HISTORY

Hogan sued Everett in the 81st Judicial District Court of Atascosa County, alleging breach of an oral contract, fraud, and unjust enrichment and seeking declaratory relief concerning a land sale. Everett moved for no-evidence summary judgment and attached certain evidence. The trial court granted summary judgment on all claims after declining to consider Hogan's incomplete and untimely affidavit. The court of appeals affirmed the judgment on the breach-of-contract claim, reversed the judgment on the fraud, unjust-enrichment, and declaratory-judgment claims, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for proceedings consistent with the opinion on Hogan's fraud, unjust-enrichment, and declaratory-judgment claims; the summary judgment on the breach-of-contract claim remains affirmed.

CASES CITED

- Starwood Mgmt., LLC v. Swaim, 530 S.W.3d 673, 678 (Tex. 2017) (per curiam)
- Huynh v. Blanchard, 694 S.W.3d 648, 674 (Tex. 2024)
- In re Est. of Blankenship, 392 S.W.3d 249, 258 (Tex. App.—San Antonio 2012, no pet.)
- Valence Operating Co. v. Dorsett, 164 S.W.3d 656, 661 (Tex. 2005)
- City of Keller v. Wilson, 168 S.W.3d 802, 824 (Tex. 2005)
- Binur v. Jacobo, 135 S.W.3d 646, 650–51 (Tex. 2004)
- Coleman v. Prospere, 510 S.W.3d 516, 518–19 (Tex. App.—Dallas 2014, no pet.)
- Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 600 (Tex. 2004)
- KMS Retail Rowlett, LP v. City of Rowlett, 593 S.W.3d 175, 181 (Tex. 2019)
- Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211, 216 (Tex. 2003)
- Transcon. Ins. Co. v. Briggs Equip. Tr., 321 S.W.3d 685, 692 (Tex. App.—Houston [14th Dist.] 2010, no pet.)
- Sw. Elec. Power Co. v. Grant, 73 S.W.3d 211, 215 (Tex. 2002)
- Bean v. Reynolds Realty Grp., Inc., 192 S.W.3d 856, 859 (Tex. App.—Texarkana 2006, no pet.)
- Meru v. Huerta, 136 S.W.3d 383, 387 (Tex. App.—Corpus Christi–Edinburg 2004, no pet.)
- Brooks v. Excellence Mortg., Ltd., 486 S.W.3d 29, 36 (Tex. App.—San Antonio 2015, pet. denied)

- BoRain Cap., LLC v. Hashmi, 533 S.W.3d 32, 36 (Tex. App.—San Antonio 2017, pet. denied)
- Callaghan Ranch, Ltd. v. Killam, 53 S.W.3d 1, 3–4 (Tex. App.—San Antonio 2001, pet. denied)
- White Rock Expl., Inc. v. Freeman Mills, P.C., 607 S.W.3d 429, 438–39 (Tex. App.—Texarkana 2020, no pet.)
- Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co., 51 S.W.3d 573, 577 (Tex. 2001)
- Sharp v. Mosier, No. 04-11-00449-CV, 2012 WL 2021390, at *4 (Tex. App.—San Antonio June 6, 2012, no pet.) (mem. op.)
- White Knight Dev., LLC v. Simmons, 718 S.W.3d 203, 209 (Tex. 2025)
- Marx v. FDP, LP, 474 S.W.3d 368, 374 (Tex. App.—San Antonio 2015, pet. denied)
- Gonzales v. Thorndale Coop. Gin & Grain Co., 578 S.W.3d 655, 657 (Tex. App.—Houston [14th Dist.] 2019, no pet.)
- Artuso v. Town of Trophy Club, No. 02-20-00377-CV, 2021 WL 1919634, at *4 (Tex. App.—Fort Worth May 13, 2021, no pet.) (mem. op.)