

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Dalila Agiza v. T-Slash-Bar Texas, Ltd.

No. 04-24-00704-CV (Tex. App.—San Antonio May 29, 2026) · No. 04-24-00704-CV · Decided May 29, 2026

SUMMARY

The Fourth Court of Appeals of Texas partially affirmed and partially reversed orders concerning the dismissal of Dalila Agiza’s claims under Texas Rule of Civil Procedure 91a and the vacatur of a temporary restraining order. The court held that the breach-of-contract and negligence claims were improperly dismissed, while affirming dismissal of the defamation, intentional infliction of emotional distress, civil conspiracy, and racial discrimination claims. It also affirmed vacatur of the temporary restraining order because the district court lacked jurisdiction over issues within the justice court’s exclusive jurisdiction in the parallel forcible-detainer proceeding.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Irene Rios, Justice; Rebeca C. Martinez, Chief Justice; Lori I. Valenzuela, Justice
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	May 29, 2026
DOCKET	04-24-00704-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Agiza appealed the trial court's Rule 91a dismissal of her claims, the denial of her motion to reconsider, the vacatur of a temporary restraining order, and several ancillary rulings.
STANDARD OF REVIEW	The court reviewed the Rule 91a dismissal de novo. It reviewed the temporary restraining order ruling for abuse of discretion, while reviewing the trial court's determination and application of the law without deference.
PRECEDENTIAL VALUE	published
PARTIES	Dalila Agiza v. T-Slash-Bar Texas, Ltd.

TOPICS

- motions to dismiss
- breach of contract
- negligence
- injunctions
- appellate procedure

PRACTICE AREAS

civil procedure

contracts

torts

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly dismissed Agiza's claims under Texas Rule of Civil Procedure 91a based on the live third amended petition.
2. Whether the trial court erred by dismissing the newly added breach-of-contract claim when T-Slash-Bar's Rule 91a motion did not identify or challenge that claim.
3. Whether Agiza's negligence pleading had a basis in law and fact under Rule 91a.
4. Whether Agiza adequately pleaded defamation, intentional infliction of emotional distress, civil conspiracy, and racial discrimination claims.
5. Whether the district court had jurisdiction to issue a temporary restraining order concerning possession of premises involved in a pending forcible-detainer action.
6. Whether the trial court improperly dismissed claims against unserved defendants, allowed counsel to draft proposed orders, used Bexar County's central docket system, denied a jury trial, or failed to correct docket and record errors.

HOLDINGS

1. The trial court erred by dismissing Agiza's breach-of-contract claim because the claim was added in the live third amended petition and T-Slash-Bar did not amend its Rule 91a motion to challenge it.
2. The trial court erred by dismissing Agiza's negligence claim because the live pleading alleged facts that, if taken as true, established a basis in law and fact for the claim.
3. The trial court did not err by dismissing Agiza's defamation claim because the petition did not identify a defamatory statement made by T-Slash-Bar to a third party or provide sufficient facts identifying the alleged statements and their audience.
4. The trial court did not err by dismissing Agiza's intentional-infliction-of-emotional-distress claim because her allegations were conclusory and did not plead extreme and outrageous conduct or distress so severe that no reasonable person could be expected to endure it.
5. The trial court did not err by dismissing Agiza's civil-conspiracy claim because the petition did not include an actionable underlying tort that could support conspiracy liability.
6. The trial court did not err by dismissing Agiza's racial-discrimination claim because she did not identify a recognized independent cause of action under Texas law or provide supporting statutory or common-law authority.
7. The district court lacked jurisdiction to grant the TRO because the order addressed immediate possession in a forcible-detainer proceeding within the justice court's exclusive jurisdiction; the TRO was therefore void, and the trial court properly vacated it.
8. The trial court properly dismissed the claims against the only parties properly before it because the record showed no citation, service, waiver, or appearance by the other named defendants.

9. The trial court did not improperly delegate judicial authority by asking opposing counsel to draft proposed orders because the judge's signature ensured that the orders reflected the court's rulings.
10. The trial court did not lack authority merely because another district judge ruled on matters in the case without a formal transfer order; Texas law permits district judges to exchange benches or hear cases for one another.
11. The docket-sheet notation 'Final-Judgment-Non-Jury-Trial' did not deprive Agiza of a jury trial because docket entries are not judgments, and the Rule 91a dismissal occurred before trial when no material fact issue remained for a jury.

KEY QUOTATIONS

“The trial court had no basis under Rule 91a to dismiss AGiza’s unchallenged breach of contract claim.” (at 5)

“As plead in her live pleading, AGiza’s negligence claim provides factual allegations, that if taken as true, would entitle AGiza to relief, thereby establishing the cause of action has both a basis in law and fact.” (at 7)

“Because the district court does not have jurisdiction over forcible detainer suits and ancillary issues arising from those suits, the district court here lacked jurisdiction to grant AGiza’s application for a TRO that infringed on the justice court’s exclusive jurisdiction.” (at 14)

FACTUAL BACKGROUND

Agiza contracted with T-Slash-Bar Texas, Ltd. to board her horse. In her third amended petition, she alleged unsafe facilities, negligent handling and medication of the horse, failure to notify her of injuries, defamation, intentional infliction of emotional distress, conspiracy, and racial discrimination. While a related forcible-detainer proceeding concerning possession of the boarding facility was pending in justice court, a district judge issued an ex parte temporary restraining order preventing T-Slash-Bar from evicting or removing Agiza or her horse. The TRO was later vacated.

PROCEDURAL HISTORY

Agiza sued T-Slash-Bar Texas, Ltd. concerning the boarding of her horse. The trial court granted T-Slash-Bar's Rule 91a motion and dismissed Agiza's claims. After Agiza filed a third amended petition, the trial court denied reconsideration, denied or dismissed other motions, and vacated an ex parte temporary restraining order that had restrained T-Slash-Bar from evicting or removing Agiza or her horse. The court of appeals affirmed in part, reversed the dismissal of the breach-of-contract and negligence claims, and remanded those claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The breach-of-contract and negligence claims are remanded to the trial court for further proceedings consistent with the opinion.

CASES CITED

- Willis v. Donnelly, 199 S.W.3d 262, 270 (Tex. 2006)
- Bertucci v. Watkins, 709 S.W.3d 534, 541 (Tex. 2025)
- Ross v. St. Luke’s Episcopal Hosp., 462 S.W.3d 496, 500 (Tex. 2015)
- City of Dallas v. Sanchez, 494 S.W.3d 722, 724 (Tex. 2016)
- In re Farmers Tex. Cnty. Mut. Ins. Co., 621 S.W.3d 261, 266 (Tex. 2021)
- Vasquez v. Legend Nat. Gas III, LP, 492 S.W.3d 448, 450 (Tex. App.—San Antonio 2016, pet. denied)
- AMS Const. Co., Inc. v. K.H.K. Scaffolding Houston, Inc., 357 S.W.3d 30, 41 (Tex. App.—Houston [1st Dist.] 2011, pet. dismissed)
- Medfin Manager, LLC v. Stone, 613 S.W.3d 624, 631 (Tex. App.—San Antonio 2020, no pet.)
- Elephant Ins. Co., LLC v. Kenyon, 644 S.W.3d 137, 144 (Tex. 2022)
- Chapman Custom Homes, Inc. v. Dallas Plumbing Co., 445 S.W.3d 716, 718 (Tex. 2014)
- In re Lipsky, 460 S.W.3d 579, 593 (Tex. 2015)
- Guillory v. Seaton, LLC, 470 S.W.3d 237, 240 (Tex. App. 2015)
- Hoffmann-LaRoche, Inc. v. Zeltwanger, 144 S.W.3d 438, 445 (Tex. 2004)
- Tex. Farm Bureau Mut. Ins. Cos. v. Sears, 84 S.W.3d 604, 610 (Tex. 2002)
- GTE Southwest, Inc. v. Bruce, 998 S.W.2d 605, 612, 618 (Tex. 1999)
- First United Pentecostal Church of Beaumont v. Parker, 514 S.W.3d 214, 222 (Tex. 2017)
- Tilton v. Marshall, 925 S.W.2d 672, 681 (Tex. 1996)
- Agar Corp., Inc. v. Electro Circuits Int’l, LLC, 580 S.W.3d 136, 142 (Tex. 2019)
- Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204, 211 (Tex. 2002)
- Midway CC Venture I, LP v. O&V Venture, LLC, 527 S.W.3d 531, 534, 536 (Tex. App.—Houston [1st Dist.] 2017, no pet.)
- In re Guzman, No. 04-20-00589-CV, 2021 WL 2211458, at *2 (Tex. App.—San Antonio June 2, 2021, orig. proceeding) (mem. op.)
- Laredo Jet Ctr., LLC v. City of Laredo, No. 04-17-00316-CV, 2018 WL 3551255, at *2 (Tex. App.—San Antonio July 25, 2018, pet. denied) (mem. op.)
- Cook v. Cameron, 733 S.W.2d 137, 140 (Tex. 1987)
- Wilson v. Dunn, 800 S.W.2d 833, 836-837 (Tex. 1990)
- Vadackaneth v. Asariyathu, No. 05-21-00893-CV, 2023 WL 3881128, at *4 (Tex. App.—Dallas June 8, 2023, no pet.) (mem. op.)
- Goff v. Tuchscherer, 627 S.W.2d 397, 398 (Tex. 1982)
- Bolinger v. Contreras, No. 13-21-00151-CV, 2021 WL 3411867, at *3 n.8 (Tex. App.—Corpus Christi—Edinburg Aug. 5, 2021, no pet.) (mem. op.)
- In re D.L., 160 S.W.3d 155, 167 (Tex. App.—Tyler 2005, no pet.)

- Salazar v. Dickey, No. 04-08-00022-CV, 2010 WL 307852, at *2 (Tex. App.—San Antonio Jan. 27, 2010, pet. denied) (mem. op.)
- In re Schmitz, 285 S.W.3d 451, 454 (Tex. 2009)
- Gwyn v. Brooks, No. 01-24-00618-CV, 2025 WL 1799520, at *1 (Tex. App.—Houston [1st Dist.] July 1, 2025, no pet.) (mem. op.)
- Aaron v. Caddo Mins., Inc., No. 11-22-00020-CV, 2023 WL 5622115, at *10 (Tex. App.—Eastland Aug. 31, 2023, pet. denied) (mem. op.)
- Bailey-Mason v. Mason, 122 S.W.3d 894, 897 (Tex. App.—Dallas 2003, pet. denied)

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