

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

High Risk Pregnancy Doctors, PLLC and Violetta Lozovyy v. Lincoln
Property Company D/B/A Lincoln Harris CSG and Douglas MacLay
III

No. 02-25-00386-CV (Tex. App.—Fort Worth Jan. 30, 2026) · No. No. 02-25-00386-CV · Decided January 30,
2026

SUMMARY

The Texas Court of Appeals, Second Appellate District, affirmed a Rule 91a dismissal of fraud, fraudulent-inducement, and Texas Deceptive Trade Practices Act claims brought by a medical practice and its physician against a leasing company and its representative. The court held that reliance on an alleged oral representation concerning lease obligations was not justifiable as a matter of law because it was directly contradicted by the express terms of the written lease. The court also held that the discovery rule did not toll the DTPA limitations period because the alleged deception could have been discovered through reasonable diligence and review of the lease.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Dabney Bassel; Kerr, J.; Walker, J.
JURISDICTION	Texas Court of Appeals, Second Appellate District, Fort Worth
DECIDED	January 30, 2026
DOCKET	No. 02-25-00386-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment dismissing appellants' fraudulent inducement, common-law fraud, and Texas Deceptive Trade Practices Act claims under Texas Rule of Civil Procedure 91a.
STANDARD OF REVIEW	De novo review applies to the merits of a Rule 91a motion because whether the pleaded facts entitle the claimant to a remedy is a question of law and Rule 91a's factual-plausibility standard is akin to legal-sufficiency review. The court considers the plaintiff's pleadings and permitted exhibits for the factual inquiry, may consider the substance

	of the motion and arguments for the legal inquiry, and may not consider evidence.
PRECEDENTIAL VALUE	published
PARTIES	High Risk Pregnancy Doctors, PLLC, Violetta Lozovyy v. Lincoln Property Company d/b/a Lincoln Harris CSG, Douglas MacLay III

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QUESTIONS PRESENTED

1. Whether the trial court properly dismissed the fraud and fraudulent-inducement claims under Rule 91a because reliance on MacLay's alleged oral representation was not justifiable as a matter of law when the representation directly contradicted the lease's express, unambiguous terms.
2. Whether the trial court properly dismissed the DTPA claim as time-barred because the discovery rule did not toll limitations where appellants could have discovered the alleged deception through reasonable diligence by reviewing the lease.

HOLDINGS

1. A party cannot justifiably rely as a matter of law on an oral representation that is directly contradicted by the express, unambiguous terms of a written agreement. Because appellants' petition showed that MacLay's alleged promise conflicted with the lease's privilege requirements and was not incorporated into the lease, the fraud and fraudulent-inducement claims had no basis in law under Rule 91a.
2. The discovery rule did not toll limitations on appellants' DTPA claim because the alleged deception was not inherently undiscoverable and appellants failed to exercise reasonable diligence by comparing MacLay's statement with the readily accessible written lease. The DTPA claim filed more than two years after the May 2022 representation was therefore time-barred.

KEY QUOTATIONS

“Therefore, reliance upon an oral representation that is directly contradicted by the express, unambiguous terms of a written agreement between the parties is not justified as a matter of law.” (at 18)

“Accordingly, we hold that Dr. Lozovyy’s reliance on MacLay’s oral representation—which was directly contradicted by the express, unambiguous terms of the Lease—was not justified as a matter of law.” (at 23)

“Accordingly, we conclude that the accrual of Appellants’ DTPA claim was not tolled because they are deemed to have failed to exercise reasonable diligence as a matter of law.” (at 29)

FACTUAL BACKGROUND

High Risk Pregnancy Doctors, PLLC and Dr. Violetta Lozovyy sought to lease medical office space subject to written restrictions requiring physicians using the premises to hold active or courtesy staff privileges at a Baylor hospital. Lozovyy's petition alleged that, after she asked what would happen if she failed to obtain privileges, leasing representative Douglas MacLay orally promised that the lease would not become effective or would not bind her if she failed to obtain them. The written lease did not contain that contingency and instead expressly required the privileges. Lozovyy's privileges application was denied, and appellants alleged that they incurred rent, deposits, office expenses, salaries, and equipment costs. They filed suit more than two years after the alleged May 2022 representation.

PROCEDURAL HISTORY

Appellants leased medical office space and alleged that Douglas MacLay represented that the lease would not bind them if Dr. Lozovyy failed to obtain hospital privileges. The landlord later sued appellants for breach of the lease and guaranty but nonsuited that action. Appellants then sued the property appellees for fraud, fraudulent inducement, and DTPA violations. The trial court granted the property appellees' Rule 91a motion and dismissed all claims with prejudice; the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- City of Dallas v. Sanchez, 494 S.W.3d 722, 724 (Tex. 2016)
- Fiamma Statler, LP v. Challis, No. 02-18-00374-CV, 2020 WL 6334470, at *8 (Tex. App.—Fort Worth Oct. 29, 2020, pet. denied) (mem. op.)
- Bethel v. Quilling, Selander, Lownds, Winslett & Moser, P.C., 595 S.W.3d 651, 655-56 (Tex. 2020)
- Galindo v. Peterson, Nos. 02-23-00268-CV, 2024 WL 1792377, at *2, *5, *6 (Tex. App.—Fort Worth Apr. 25, 2024, pet. denied) (mem. op.)
- In re Springs Condos., L.L.C., No. 03-21-00493-CV, 2021 WL 5814292, at *3 (Tex. App.—Austin Dec. 8, 2021, orig. proceeding [mand. denied]) (mem. op.)
- Quinn v. State Farm Lloyds, No. 02-22-00191-CV, 2023 WL 3749932, at *10 (Tex. App.—Fort Worth June 1, 2023, no pet.) (mem. op.)
- Fort Apache Energy, Inc. v. Short OG III, Ltd., No. 09-25-00010-CV, 2025 WL 3169335, at *11 (Tex. App.—Beaumont Nov. 13, 2025, no pet. h.) (mem. op.)
- Anderson v. Durant, 550 S.W.3d 605, 614 (Tex. 2018)
- Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co., 51 S.W.3d 573, 577 (Tex. 2001)
- Trenholm v. Ratcliff, 646 S.W.2d 927, 930 (Tex. 1983)
- Grant Thornton LLP v. Prospect High Income Fund, 314 S.W.3d 913, 923 (Tex. 2010)
- JPMorgan Chase Bank, N.A. v. Orca Assets G.P., L.L.C., 546 S.W.3d 648, 653-60 (Tex. 2018)

- Prize Energy Res., L.P. v. Cliff Hoskins, Inc., 345 S.W.3d 537, 584 (Tex. App.—San Antonio 2011, pet. denied)
- Nath v. Tex. Children's Hosp., 576 S.W.3d 707, 709 (Tex. 2019)
- Nat'l Prop. Holdings, L.P. v. Westergren, 453 S.W.3d 419, 424-25 (Tex. 2015)
- AKB Hendrick, LP v. Musgrave Enters., Inc., 380 S.W.3d 221, 232 (Tex. App.—Dallas 2012, no pet.)
- Shafipour v. Rischon Dev. Corp., No. 11-13-00212-CV, 2015 WL 3454219, at *8 (Tex. App.—Eastland May 29, 2015, pet. denied) (mem. op.)
- Teel v. Autonation Motors, LLC, No. 02-20-00419-CV, 2022 WL 123217, at *3 (Tex. App.—Fort Worth Jan. 13, 2022, no pet.) (mem. op.)
- Cantu v. Falcon Int'l Bank, No. 04-17-00467-CV, 2018 WL 1831651, at *2 (Tex. App.—San Antonio Apr. 18, 2018, pet. denied) (mem. op.)
- Dailey v. Thorpe, 445 S.W.3d 785, 790 (Tex. App.—Houston [1st Dist.] 2014, no pet.)
- Mercedes-Benz USA, LLC v. Carduco, Inc., 583 S.W.3d 553, 559 (Tex. 2019)
- Exxon Corp. v. Emerald Oil & Gas Co., 348 S.W.3d 194, 202 (Tex. 2011) (op. on reh'g)
- Sw. Energy Prod. Co. v. Berry-Helfand, 491 S.W.3d 699, 721 (Tex. 2016)
- BP Am. Prod. Co. v. Marshall, 342 S.W.3d 59, 65-66 (Tex. 2011)
- S.V. v. R.V., 933 S.W.2d 1, 25 (Tex. 1996)
- Riverside Strategic Cap. Fund I, L.P. v. CLG Invs., LLC, 722 S.W.3d 27, 36 (Tex. Bus. Ct. 2025)
- United Healthcare Servs., Inc. v. First St. Hosp. LP, 570 S.W.3d 323, 336 (Tex. App.—Houston [1st Dist.] 2018, pet. denied)
- Est. of Jobe v. Berry, 428 S.W.3d 888, 903 (Tex. App.—Texarkana 2014, no pet.)
- J.M.K. 6, Inc. v. Gregg & Gregg, P.C., 192 S.W.3d 189, 197 (Tex. App.—Houston [14th Dist.] 2006, no pet.)
- In re Hoskins, No. 13-18-00296-CV, 2018 WL 6815486, at *8 (Tex. App.—Corpus Christi–Edinburg Dec. 27, 2018, orig. proceeding [mand. denied]) (mem. op.)
- Boroja v. Le Roux, No. 03-23-00789-CV, 2025 WL 777729, at *4 (Tex. App.—Austin Mar. 12, 2025, no pet.) (mem. op.)
- In re Longoria, 470 S.W.3d 616, 632 (Tex. App.—Houston [14th Dist.] 2015, orig. proceeding)

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