

FIRST COURT OF APPEALS OF TEXAS AT HOUSTON

In re Allstate Fire and Casualty Insurance Company

In re Allstate · No. 01-15-00003-CV · Decided March 10, 2015

SUMMARY

This document is a respondent's second motion to extend the deadline for filing a response to a petition for writ of mandamus. The motion, filed in the First Court of Appeals of Texas, explains that the timely response was rejected due to filing-format issues and requests a one-day extension.

CASE DETAILS

COURT	First Court of Appeals of Texas at Houston
JURISDICTION	Texas
DECIDED	March 10, 2015
DOCKET	01-15-00003-CV
DISPOSITION	other
PROCEDURAL POSTURE	Respondents William Howard and Charlene Howard filed a second motion to extend by one day the deadline for filing their response to a petition for writ of mandamus in an original proceeding.
PRECEDENTIAL VALUE	nonprecedential filing
PARTIES	Allstate Fire and Casualty Insurance Company v. William Howard, Charlene Howard

TOPICS

[appellate procedure](#) [civil procedure](#) [insurance](#)

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether the respondents should receive a one-day extension of the deadline to file their response to the petition for writ of mandamus after their timely submission was rejected for a filing-format error.

FACTUAL BACKGROUND

William and Charlene Howard stated that they timely filed a response to Allstate's petition for writ of mandamus on March 9, 2015. The filing was rejected because the brief and appendix were filed separately rather than as one continuous filing. Counsel requested a one-day extension so the response could be properly filed on March 10, 2015.

PROCEDURAL HISTORY

The underlying dispute was pending in William Howard and Charlene Howard v. Allstate Fire and Casualty Insurance Company and Lisa Graves, Cause No. 14-DCV-215228, in the 434th District Court of Fort Bend County. In the appellate mandamus proceeding, the respondents stated that their timely response filed on March 9, 2015 had been rejected because the brief and appendix were submitted as separate filings, and they requested a one-day extension to refile the response.

DISPOSITION

other

OPINION

PER CURIAM.

ACCEPTED 01-15-00003-cv FIRST COURT OF APPEALS HOUSTON, TEXAS 3/10/2015 10:06:51 AM CHRISTOPHER PRINE CLERK NO. 01-15-00003-CV FILED IN COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS AT HOUSTON 1st COURT OF APPEALS HOUSTON, TEXAS 3/10/2015 10:06:51 AM IN RE ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY CHRISTOPHER A. PRINE Clerk Original Proceeding from William Howard and Charlene Howard v. Allstate Fire and Casualty Insurance Company and Lisa Graves; Cause no. 14-DCV-215228; in the 434th District Court, Fort Bend County, Texas RESPONDENT'S SECOND MOTION TO EXTEND TIME FOR RESPONSE TO THE HONORABLE COURT OF APPEALS: Respondents, William Howard and Charlene Howard, file this Second Motion to Extend their time to file a response brief to the Realtor's Petition for Writ of Mandamus.

Mr. and Mrs. Howard show the Court as follows: I. 1. Real Parties in Interest timely filed their response on the due date of March 9, 2015 but the filing was rejected because it was two separate filings (i.e., brief and appendix) and should have been one continuous filing. Counsel was notified of the rejection the morning of the 10th.

The filing will be properly done on March 10, 2015. Real Parties in Interest respectfully request the Court grant a 1-day extension of the due date to timely file their response. 2. The requested continuance of the response due date is not requested for 1 purposes of delay, harassment or any improper purpose. It is requested so that justice may be done. 3.

The undersigned attorney and Realtor's counsel did not have an opportunity to confer regarding this motion given the short notice and imminent need to file it. WHEREFORE, PREMISES CONSIDERED, Respondents, William and Charlene Howard, respectfully request that the Court GRANT the requested relief and reset the due date for a response to the Petition for Mandamus for 1-day beyond the current due date of March 9, 2015 and grant Real Parties in Interest all further relief, to which they may be justly entitled.

Respectfully submitted, BY: /s/ Mario A. Martinez Mario A. Martinez The Law Offices of Mario A. Martinez, PLLC State Bar No.24013110 23123 Cinco Ranch Blvd., Suite 208 Katy, Texas 77494 281-665-7924 281-665-7929 fax www.yourtexaslawyer.biz mario@yourtexaslawyer.biz
COUNSEL FOR RESPONDENTS 2 CERTIFICATE OF SERVICE The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause on this 10th day of MARCH, 2015 pursuant to the Texas Rules of Civil Procedure and Texas Rules of Appellate Procedure. /s/ Mario A. Martinez Mario A. Martinez 3