

TEXAS COURT OF APPEALS FOR THE FIRST DISTRICT, HOUSTON

Dennis Fisher and Sheryl Fisher v. Pine Village North Asociation

Fisher v. Pine Village North Asociation · No. 01-24-00183-CV · Decided January 22, 2026

SUMMARY

The First District Court of Appeals of Texas affirmed a judgment in favor of Pine Village North Association in a dispute involving unpaid homeowners’ association assessments, foreclosure, and the association’s authority to sue. The court held that the Fishers’ challenges concerned capacity rather than standing and were waived because they did not file a properly verified pleading under Texas Rule of Civil Procedure 93.

CASE DETAILS

COURT	Texas Court of Appeals for the First District, Houston
WRITING FOR THE COURT	Amparo "Amy" Guerra; Julie Countiss Guiney; Andrew Johnson
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	January 22, 2026
DOCKET	01-24-00183-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pro se appellants appealed a final judgment entered after a bench trial in favor of a homeowners association in an action involving unpaid assessments, attorney’s fees, and foreclosure. They argued that the association lacked standing or capacity to sue and that the judgment was void.
STANDARD OF REVIEW	The court applied waiver and preservation principles to the capacity challenge and reviewed whether the Fishers had preserved and adequately briefed a reversible appellate issue.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is identified as published in the provided metadata.
PARTIES	Dennis Fisher, Sheryl Fisher v. Pine Village North Association

TOPICS

- civil procedure
- appellate procedure
- standing
- subject matter jurisdiction
- real estate

PRACTICE AREAS

civil procedure

appellate procedure

real estate

corporate law

QUESTIONS PRESENTED

1. Whether the Fishers' challenges to the HOA's corporate status and authority to sue were standing challenges implicating subject-matter jurisdiction or capacity challenges.
2. Whether the Fishers preserved a capacity challenge under Texas Rule of Civil Procedure 93 by filing a verified pleading.
3. Whether the trial court's judgment was void or otherwise reversible because the HOA allegedly lacked standing or capacity to bring suit.

HOLDINGS

1. The Fishers' statute-based complaints that the HOA lacked legal authority to bring suit challenged the HOA's capacity to sue, not its standing or the trial court's subject-matter jurisdiction.
2. The Fishers waived their capacity challenge because their answers were not verified as required by Texas Rule of Civil Procedure 93, and their verified Rule 12 motions to show authority did not satisfy Rule 93.
3. The Fishers' pro se status did not excuse their failure to comply with Rule 93 because the rule's application did not depend on their state of mind.

KEY QUOTATIONS

“A plaintiff has standing when it is personally aggrieved, regardless of whether it is acting with legal authority; a party has capacity when it has the legal authority to act, regardless of whether it has a justiciable interest in the controversy.” (at 8)

“Lack of capacity must be challenged by a verified pleading or it is waived.” (at 10)

“The Fishers were thus required to comply with rule 93, and their failure to do so leaves us with nothing to review on appeal.” (at 13)

FACTUAL BACKGROUND

The Fishers owned and occupied residential property subject to Pine Village North Association's assessments. The HOA alleged that the Fishers failed to pay more than \$20,000 in assessments and related charges and sought foreclosure of its lien. The Fishers challenged the HOA's corporate authority to sue based on alleged dissolution, forfeiture, reinstatement, board-election defects, and other statutory and governance irregularities. The trial court awarded the HOA \$23,064.47 in delinquent assessments and late charges, \$29,142.54 in attorney's fees and expenses, and foreclosure of the lien.

PROCEDURAL HISTORY

The HOA sued the Fishers to recover unpaid assessments and foreclose its lien. The Fishers filed answers and multiple motions to show authority challenging the HOA's authority, standing, and capacity. The trial court

denied or did not expressly rule on the motions, conducted a bench trial, entered judgment for the HOA, and found that the Fishers had not proved the HOA lacked capacity to sue. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Lesikar v. Moon, 237 S.W.3d 361, 371 (Tex. App.—Houston [14th Dist.] 2007, pet. denied)
- Pike v. Texas EMC Management, LLC, 610 S.W.3d 763, 774-75 (Tex. 2020)
- Dubai Petroleum Co. v. Kazi, 12 S.W.3d 71, 76-77 (Tex. 2000)
- Liss v. Cushman & Wakefield of Texas, Inc., No. 01-23-00481-CV, 2025 WL 1799618, at *9 (Tex. App.—Houston [1st Dist.] June 30, 2025, no pet.) (mem. op.)
- Specialty Associates of West Houston, PLLC v. Adams, No. 01-21-00092-CV, 2022 WL 3452329, at *7 (Tex. App.—Houston [1st Dist.] Aug. 18, 2022, pet. ref'd) (mem. op.)
- Schlein v. Griffin, No. 01-14-00799-CV, 2016 WL 1456193, at *6 (Tex. App.—Houston [1st Dist.] Apr. 12, 2016, pet. denied) (mem. op.)
- Pledger v. Schoellkopf, 762 S.W.2d 145, 146 (Tex. 1988) (per curiam)
- Transamerica Corp. v. Braes Woods Condominium Association, Inc., 580 S.W.3d 733, 736 (Tex. App.—Houston [14th Dist.] 2019, no pet.)
- King-Mays v. Nationwide Mutual Insurance Co., 194 S.W.3d 143, 145 (Tex. App.—Dallas 2006, pet. denied)
- El T. Mexican Restaurants, Inc. v. Bacon, 921 S.W.2d 247, 250 (Tex. App.—Houston [1st Dist.] 1995, writ denied)
- Nine Greenway Ltd. v. Heard, Goggan, Blair & Williams, 875 S.W.2d 784, 787 (Tex. App.—Houston [1st Dist.] 1994, writ denied)
- Enterprise Products Operating, LLC v. Trafigura AG, No. 01-19-00309-CV, 2020 WL 7213347, at *5 (Tex. App.—Houston [1st Dist.] Dec. 8, 2020, no pet.) (mem. op.)
- Cuellar v. CVI LCF Mortgage Loan Trust I, No. 04-19-00130-CV, 2019 WL 5405913, at *2 (Tex. App.—San Antonio Oct. 23, 2019, no pet.) (mem. op.)
- Cognata v. Down Hole Injection, Inc., 375 S.W.3d 370, 376 (Tex. App.—Houston [14th Dist.] 2012, pet. denied)
- Landry's Seafood House-Addison, Inc. v. Snadon, 233 S.W.3d 430, 434 (Tex. App.—Dallas 2007, pet. denied)
- Goldstein v. Sabatino, 690 S.W.3d 287, 295 (Tex. 2024)
- Li v. Pemberton Park Community Association, 631 S.W.3d 701, 706 (Tex. 2021)
- Wheeler v. Green, 157 S.W.3d 439, 444 (Tex. 2005)
- Jamshed v. McLane Express, Inc., 449 S.W.3d 871, 878 (Tex. App.—El Paso 2014, no pet.)
- Austin Nursing Center, Inc. v. Lovato, 171 S.W.3d 845, 848 & n.1 (Tex. 2005)
- Mitschke v. Borromeo, 645 S.W.3d 251, 261 n.17 (Tex. 2022)

- Taylor v. Hunton Andrews Kurth, LLP, No. 14-22-00410-CV, 2023 WL 4502147, at *5 (Tex. App.—Houston [14th Dist.] July 13, 2023, no pet.) (mem. op.)
- In re A.G., 531 S.W.3d 329, 336 (Tex. App.—Houston [14th Dist.] 2017, no pet.)
- Bertucci v. Watkins, 709 S.W.3d 534, 541 (Tex. 2025)
- Memon v. Nguyen, No. 01-21-00706-CV, 2023 WL 3513135, at *4 (Tex. App.—Houston [1st Dist.] May 18, 2023, no pet.) (mem. op.)
- Professional Services Technologies, LLC v. Whipple, No. 04-20-00273-CV, 2021 WL 3174259, at *3 (Tex. App.—San Antonio July 28, 2021, no pet.) (mem. op.)

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