

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



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FOR IMMEDIATE RELEASE
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Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, January 20, 2016, beginning at 9:00 a.m., before the following panel of justices: Justice Karen Angelini, Justice Marialyn Barnard, and Justice Luz Elena D. Chapa.

The following case will be presented:

SW Loan A., L.P. v. Anibal J. Duarte-Viera, Antonio P. Pardo, and Edward W. Reiss - SW Loan A, L.P. sued Anibal J. Duarte-Viera, Antonio P. Pardo, and Edward M. Reiss, alleging they each breached a guaranty agreement involving a promissory note in the principal amount of ten million dollars. A jury found against SW Loan on the issue of whether the borrower failed to comply with the promissory note, an issue essential to SW Loan's claim. Consistent with the jury's finding, the trial court rendered judgment that SW Loan take nothing by its suit. On appeal, SW Loan argues (1) the evidence was legally and factually insufficient to support the jury's finding against it; and (2) the trial court abused its discretion in awarding Duarte-Viera, Pardo, and Reiss attorney fees for their declaratory judgment counterclaims.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, January 21, 2016, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Sandee Bryan Marion, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The following case will be presented:

Board of Adjustment of the City of San Antonio v. Michael Hayes and Theresa Hayes - On March 4, 2014, the Director of the City of San Antonio's Development Services Department revoked a permit issued for the construction of a metal railing. The Director's letter stated that the permit was issued in error because the Board of Adjustment of the City of San Antonio previously determined on January 13, 2014, that the railing would be a sports court fence subject to a 20' setback requirement. The permit was revoked because it did not require the 20' setback. The homeowner who sought the permit, Michele Pauli Torres, appealed

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the Director's decision to the Board of Adjustment which unanimously approved a motion granting the appeal and rescinding and modifying the Director's decision by allowing the railing to be constructed as the design was presented to the Board of Adjustment.

This appeal challenges the trial court's finding that the Board of Adjustment lacked jurisdiction to consider the appeal of the Director's decision to revoke the permit. On appeal, the Board contends: (1) the appellees, Michael and Theresa Hayes, failed to timely petition the trial court for judicial review of the Board's decision; (2) neither the Board nor the trial court had jurisdiction to consider whether the Board lacked jurisdiction to hear the appeal of the director's decision; and (3) if the trial court's judgment is affirmed, the cause must be returned to the Board of Adjustment for consideration of a variance application which was pending with the appeal of the Director's decision but was not decided.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, January 21, 2016, beginning at 1:30 p.m., before the following panel of justices: Justice Karen Angelini, Justice Rebeca C. Martinez, and Justice Patricia O. Alvarez.

The following case will be presented:

Amateur Athletic Union of the United States, Inc. Paul Campbell, Rod Seaford, and Charles Oliver v. Augustus Bray - The Amateur Athletic Union of the United States, Inc. (AAU) and certain individual defendants appeal the denial of their motion to compel arbitration under the AAU National Policies in a lawsuit by former AAU volunteer and officer Augustus Bray. Bray's suit alleges various tort claims, including defamation and intentional infliction of emotional distress. The legal issues include whether the arbitration agreement is valid and enforceable because none of the individual parties are signatories to the arbitration agreement, and whether the agreement is illusory or unconscionable.

The oral arguments will be held in the Fourth Court's Courtroom, Caden-Reeves Justice Center, Third Floor, 300 Dolorosa, San Antonio, Texas.