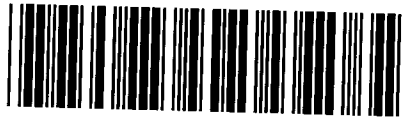




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May 16, 2016

BY HAND DELIVERY

Honorable Casey A. Bell  
Honorable Fernando Rodriguez  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 504  
Austin, Texas 78701

RE: PUC Docket No. 45624; SOAH Docket No. 473-16-2751; *Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk to Panola Double-Circuit 345 k-V Transmission Line in Rusk and Panola Counties*

Dear Judge Bell and Judge Rodriguez:

Attached please find the case I promised to provide during oral argument last Friday that gives you the discretion under Tex. R. Civ. P. 193.2(e), for good cause shown, to consider the statements contained in the affidavit of Ellen Wolfe regarding what information was not being provided in response to TIEC 2-12 as objections applicable to TIEC 3-1. The case is a Beaumont Court of Appeals Memorandum Opinion *In re: Chad Davis*, Westlaw 2013 WL 2156010.

Thank you for the opportunity to submit this case citation and to correct my reference to the applicable rule.

Very truly yours,

*Robert A. Rima* *In w/permission*

Robert A. Rima  
Attorney for Southern Cross Transmission LLC

Attachment: *In re: Chad Davis*, Westlaw 2013 WL 2156010.

2013 WL 2156010

Only the Westlaw citation is currently available.

SEE TX R RAP RULE 47.2 FOR  
DESIGNATION AND SIGNING OF OPINIONS.

**MEMORANDUM OPINION**

Court of Appeals of Texas,  
Beaumont.

In re Chad DAVIS.

No.

**09**

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**00179**

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**CV**

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Submitted April 29, 2013.

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Opinion Delivered May 16, 2013.

Original Proceeding.

**Attorneys and Law Firms**

Jeffrey Burns, Burns & Reyes-Burns, PLLC, Caldwell, TX,  
for relator.

Travis E. Kitchens Jr., Onalaska, TX, for real party in interest.

Before McKEITHEN, C.J., GAULTNEY and HORTON, JJ.

**MEMORANDUM OPINION**

PER CURIAM.

\*1 This mandamus proceeding concerns the denial of a motion to compel production of documents. Chad Davis requested production of bank records and other documents relating to a real estate transaction between Davis and the real parties in interest, William R. McLarrin and Linda K. McLarrin, and to a separate real estate transaction between the McLarrins and Davis's former girlfriend. In his motion

to compel, Davis argued that the McLarrins waived any objections to production by failing to timely respond. *See* Tex.R. Civ. P. 193.2(e) ("An objection that is not made within the time required ... is waived unless the court excuses the waiver for good cause shown."). In response, the McLarrins argued that correspondence from their former counsel stated their objection within thirty days of the request. *See* Tex.R. Civ. P. 193.2(a). During the hearing on the motion to compel, their counsel described the documents produced in response to earlier requests, and argued that the requests were unreasonably cumulative or duplicative. *See* Tex.R. Civ. P. 192.4. Davis's counsel argued that the McLarrins' previous responses had not included records for their transaction with Davis's former girlfriend. The McLarrins' mandamus response includes several hundred pages of previously produced discovery.

Rule 192.4 describes the trial court's discretion to limit discovery, as follows:

The discovery methods permitted by these rules should be limited by the court if it determines, on motion or on its own initiative and on reasonable notice, that:

(a) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; or

(b) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

Tex.R. Civ. P. 192.4.

After reviewing the mandamus record, we conclude that the relator has not shown an abuse of discretion by the trial court. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex.2004); *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992). Accordingly, we deny the petition for writ of mandamus.

PETITION DENIED.

**All Citations**

Not Reported in S.W.3d, 2013 WL 2156010

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