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Dear Friends:

I don't know if I'll have time to keep up with the Fifteenth Court over the long run, but thought I would pass along a few of its recent rulings. The *Devon Energy* matter in particular is of interest to us all—in that involves the filing of a notice of appeal by a party in the Fifteenth Court, not because the Court has exclusive original jurisdiction of the appeal, but based on the statewide jurisdiction of that Court. There are rumors another case or two like that have reached the Fifteenth, but I was unable to find them.

Recent opinions and orders issued by the Court in civil cases cover the following issues:

Jurisdiction (Statewide Jurisdiction, Notice of Appeal, Transfer, Request to Another Court of Appeals)
Sovereign Immunity (A Different Whistleblower Act)
Stay (Administrative, Pending Appeal, Accelerated Briefing)

Recent opinions and orders issued by the Court in civil cases cover the following issues (footnotes omitted in all summaries unless otherwise stated. All names in suits involving minors are aliases unless otherwise noted):

Jurisdiction (Statewide Jurisdiction, Notice of Appeal, Transfer, Request to Another Court of Appeals): *Devon Energy v. Oliver*, No. 15-24-00115-CV—“This is an appeal from a final judgment in a dispute over unpaid oil royalties. Appellants have filed an unopposed motion to abate this appeal pending disposition of appellees’ motion to transfer this appeal to the Thirteenth Court of Appeals [under TRAP 27a]. We grant the motion.” December 6, 2024 Letter to the Clerk of the Thirteenth Court

of Appeals: “Appellees Robert Leon Oliver, et al., filed a motion to transfer this appeal to the Thirteenth Court of Appeals on the ground that this Court does not have exclusive intermediate appellate jurisdiction. See Tex. Gov’t Code § 22.220(d)(1), (2). The Fifteenth Court of Appeals has decided to deny the motion. See Tex. R. App. P. 27a(c)(1)(B). Chief Justice Brister would grant the motion to transfer to the Thirteenth Court of Appeals. The Thirteenth Court of Appeals must, within 20 days after receiving this notice, file a letter in this Court explaining whether they agree with the Fifteenth Court of Appeals’ decision to deny the motion. See Tex. R. App. P. 27a(c)(1)(C).”

Sovereign Immunity (A Different Whistleblower Act): Health and Human Services Commission a/k/a Texas Department of Aging and Disability Services v. Navarro, No. 15-24-00054-CV—“This interlocutory appeal arises from a dispute about which whistleblower statutes apply against state entities. Appellee Kathy Navarro sued Appellant El Paso State Supported Living Center (“EPSSLC”)—which undisputedly is a part of the Health and Human Services Commission (“HHSC”)¹—and HHSC itself, alleging that EPSSLC unlawfully retaliated against her by terminating her employment for reporting abuse and neglect of patients by EPSSLC staff. The Texas Whistleblower Act expressly waives immunity for retaliation claims against government entities by employees who make a good faith report of a violation of law. See Tex. Gov’t Code § 554.002. But Navarro did not file suit under that statute because she did not make her report to “an appropriate law enforcement authority” as it requires. *Id.* She sued instead under a whistleblower statute applicable to healthcare facilities that requires a report “to the employee’s supervisor, an administrator of the facility, a state regulatory agency, or a law enforcement agency.” See Tex. Health & Safety Code § 260A.014. Unlike the general whistleblower statute, the latter statute says nothing about waiving immunity of government entities. HHSC filed a plea to the jurisdiction seeking to dismiss the case on the ground that sovereign immunity bars Navarro’s retaliation claim. The trial court denied the plea, and HHSC filed this appeal challenging the trial court’s decision. Because we conclude sovereign immunity bars Navarro’s retaliation claim, the trial court erred in denying HHSC’s plea to the jurisdiction. We therefore reverse the trial court’s order, render judgment that the trial court lacked subject matter jurisdiction over Navarro’s retaliation claim, and dismiss Navarro’s claim with prejudice.”

Stay (Administrative, Pending Appeal, Accelerated Briefing): Texas v. Harris County, No. 15-24-00120-CV—“The Court has the inherent authority to issue orders necessary or proper to preserve its jurisdiction during the pendency of an appeal....Tex. Gov’t Code § 22.221(a). To protect our jurisdiction pending a ruling

on the merits of the case, the Court ORDERS that [Harris County] Appellees refrain from distributing funds under the [Community Prosperity] Program during the pendency of this appeal or until further order of this Court. The Court GRANTS the motion of the State and Appellees to expedite the appeal,” denies any extensions of time to file the clerk’s or reporter’s records, and puts the parties on consecutive 14 day deadlines to file the requisite briefs.

All for now. Y’all stay safe and well and have a good weekend.

Best regards.

Yours,

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