

Opinion issued February 23, 2017



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-16-00171-CV

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**HAMID AFSHANG, Appellant**

**V.**

**NEDA MORTAZAVI, MEHRDAD NOROUZIAN,  
AND HAMID MOBLI, Appellees**

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**On Appeal from the 61st District Court  
Harris County, Texas  
Trial Court Case No. 2014-11521**

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**MEMORANDUM OPINION**

This suit arises out of an automobile accident and altercation between Hamid Mobli and Hamid Afshang, which occurred in a bookstore parking lot in Houston.

Afshang made a criminal complaint against Mobli, which was dismissed after being no-billed by the grand jury.

Mobli sued Afshang for malicious prosecution. Afshang counterclaimed for assault and brought third-party claims against Afshang's ex-wife, Neda Mortazavi, and Norouzian Mehrdad, with whom Mortazavi apparently was in a relationship.

Mortazavi, Mehrded, and Mobli moved for summary judgment on Afshang's claims against them. The trial court granted their motions. Mobli moved for summary judgment relief on his affirmative claim of malicious prosecution. The trial court granted the motion, awarding approximately \$6,200 in actual damages for criminal defense fees and medical bills. Afshang, proceeding pro se, challenges the summary-judgment rulings. As a result of deficiencies in his appellant's brief, Afshang has failed to preserve his complaints for appellate review. We therefore affirm.

## **BACKGROUND**

Mobli and Afshang had been acquainted with each other for some time, but were not on friendly terms. Mobli had driven Mortazavi and her daughter to the parking lot to allow the child to visit with her father, according to their divorce decree's custody terms. The accident happened at the end of this meeting, as both cars were exiting the parking lot.

Afshang filed a criminal complaint against Mobli, claiming that Mobli had intentionally rammed his vehicle into Afshang's vehicle in an attempt to injure Afshang. The Harris County District Attorney initially charged Mobli with felony aggravated assault, but a Harris County grand jury did not find probable cause for the complaint, resulting in its dismissal.

Mobli then brought the underlying civil suit against Afshang for malicious prosecution. Afshang counterclaimed against Mobli for defamation, assault, and conspiracy. He also included third-party claims against Mortazavi and Mehrdad.

Mortazavi and Mehrdad moved for summary judgment on no-evidence grounds. Mobli filed his own motion for summary judgment based on traditional grounds for his malicious prosecution claim against Afshang and no-evidence grounds as to Afshang's counterclaims against him. The trial court granted the third-party defendants' motion. It also granted Mobli's motion and awarded: \$931.04 in medical bills and \$5,286.16 in criminal defense attorney's fees as damages for malicious prosecution.

## **DISCUSSION**

On appeal, Afshang complains of adverse discovery rulings and the opposing parties' alleged failure to comply with discovery rulings made during the course of the suit. Afshang, however, fails to cite to any written order in the clerk's record demonstrating that the trial court heard and decided his discovery complaints based

on any written motion. Further, he has not otherwise presented a reporter's record for our review regarding any discovery dispute. As a result, Afshang has not preserved these issues for appellate review. *See* TEX. R. APP. P. 33.1.

With respect to his complaint that the trial court erred in granting summary judgment, Afshang's brief fails to challenge the trial court's judgment with citations to the record and relevant case authorities. Adequate briefing includes proper citation to the record and case authority. *See Borisov v. Keels*, 01-15-00522-CV, 2016 WL 3022603, at \*1 (Tex. App.—Houston [1st Dist.] May 26, 2016, pet. denied); *Ashley Furniture Indus. Inc. ex rel. RBLs Inc. v. Law Office of David Pierce*, 311 S.W.3d 595, 597 (Tex. App.—El Paso 2010, no pet.); *In re M.J.G.*, 248 S.W.3d 753, 760 (Tex. App.—Fort Worth 2008, no pet.); *Curtis v. Comm'n for Lawyer Discipline*, 20 S.W.3d 227, 236 (Tex. App.—Houston [14th Dist.] 2000, no pet.). Texas Rule of Appellate Procedure 38.1(h) requires that an appellant's brief "contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." *Morrill v. Cisek*, 226 S.W.3d 545, 548 (Tex. App.—Houston [1st Dist.] 2006, no pet.); TEX. R. APP. P. 38.1(h). "Rule 38 requires [a party] to provide us with such discussion of the facts and the authorities relied upon as may be requisite to maintain the point at issue." *Morrill*, 226 S.W.3d at 548 quoting *Tesoro Petroleum Corp. v. Nabors Drilling USA, Inc.*, 106 S.W.3d 118, 128 (Tex. App.—Houston [1st Dist.] 2002, pet. denied)). Although we

interpret this requirement liberally, *see Republic Underwriters Ins. Co. v. Mex-Tex, Inc.*, 150 S.W.3d 423, 427 (Tex. 2004), a brief that does not contain any citations to authorities or to the record for a given issue waives that issue. *Abdelnour v. Mid Nat'l Holdings, Inc.*, 190 S.W.3d 237, 241 (Tex. App.—Houston [1st Dist.] 2006, no pet.); *Trammell v. Frost Nat'l Bank*, No. 01-05-00216-CV, 2006 WL 3513596, at \*1–2 (Tex. App.—Houston [1st Dist.] Dec. 7, 2006, no pet.).

Litigants appearing on their own behalf are held to the same standards as licensed attorneys and must comply with all applicable laws and rules of procedure. *See Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184–85 (Tex. 1978); *Kanow v. Brownshadel*, 691 S.W.2d 804, 806 (Tex. App.—Houston [1st Dist.] 1985, no writ). A pro se litigant must properly present his case on appeal, and we may not apply different standards for litigants appearing without the advice of counsel. *See Morris v. Am. Home Mortg. Serv., Inc.*, 360 S.W.3d 32, 36 (Tex. App.—Houston [1st Dist.] 2011, no pet.).

Because Afshang has not presented legal authority or citations to the record that support his contentions, we hold that his complaints are waived. *See Franz v. Katy Indep. Sch. Dist.*, 35 S.W.3d 749, 755 (Tex. App.—Houston [1st Dist.] 2000, no pet.); *Blagoev v. Hinderman*, No. 01-02-01336-CV, 2005 WL 1415331, at \*2 (Tex. App.—Houston [1st Dist.] June 16, 2005, no pet.).

## **CONCLUSION**

Afshang has waived any complaint of error. We therefore affirm the judgment of the trial court.

Jane Bland  
Justice

Panel consists of Chief Justice Radack and Justices Jennings and Bland.