

Conditionally Grant and Opinion Filed April 29, 2016



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-00184-CV

IN RE ADAM R. SHAPIRA, M.D., INDIVIDUALLY, ET AL, Relators

Original Proceeding from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-14-05621

MEMORANDUM OPINION

Before Justices Bridges, Myers, and Whitehill
Opinion by Justice Bridges

Relators brought this petition for writ of mandamus complaining that the trial court has not yet ruled on their motions to dismiss brought pursuant to Chapter 74 of the Texas Civil Practice and Remedies Code. The trial court conducted a hearing on the motions on December 3, 2014, but has not yet ruled.

A trial court has a duty to rule on motions that have been properly filed and brought to the Court's attention. *Eli Lilly and Co. v. Marshall*, 829 S.W.2d 157, 158 (Tex. 1992) (orig. proceeding). Trial courts are entitled to a reasonable time in which to rule on motions. *In re Blakeney*, 254 S.W.3d 659, 661 (Tex. App.—Texarkana 2008, orig. proceeding). Whether a reasonable time for the trial court to act has lapsed is dependent upon the circumstances of each case and no bright line separates a reasonable time period from an unreasonable one. *See id.* Among the criteria included are the trial court's actual knowledge of the motion, its overt refusal

to act, the state of the court's docket, and the existence of other judicial and administrative matters which must be addressed first. *Id.*

There is no question the trial court is aware of the motions. It has held a hearing on the motions, discussed them during a status conference held a year after the initial hearing, and, during that status conference, promised an imminent ruling. Although the trial court no doubt has a heavy docket, we may presume the trial court took its own docket and its other judicial and administrative duties into consideration in advising the parties of its intention to rule. *In re First Mercury Ins. Co., No. 13-13-00469-CV, 2013 WL 6056665, at *5 (Tex. App.—Corpus Christi Nov. 13, 2013, orig. proceeding).* Under these circumstances, we conclude mandamus relief is appropriate.

Accordingly, we conditionally grant the writ of mandamus. We order the trial court to make written rulings within 30 days of the date of this opinion on: (1) the November 6, 2014 motion to dismiss filed by relators Texas Heart Hospital of the Southwest, L.L.P. d/b/a The Heart Hospital Baylor Plano, HealthTexas Provider Network d/b/a Dallas Diagnostic Association-Plano, Baylor Health Care System, and Baylor Regional Medical Center at Plano, (2) the November 12, 2014 amended motion to dismiss filed by relators Adam R. Shapira, M.D. and Advanced Heart Care, P.A., and (3) the November 12, 2014 motion to dismiss filed by relator David Paul Myers, M.D. Mandamus will issue only if the trial court fails to comply with this opinion and the order of this date.

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/David L. Bridges/
DAVID L. BRIDGES
JUSTICE