

DISMIS and Opinion Filed October 16, 2018



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-01306-CV

DIANA MUÑOZ, Appellant

V.

LAURAL OAKS MEMORIAL INC. AND HUGH G. BEARDEN II, Appellees

**On Appeal from the County Court at Law No. 3
Dallas County, Texas
Trial Court Cause No. CC-17-02194-C**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Evans, and Justice Brown
Opinion by Chief Justice Wright

Appellant's amended brief in this case is overdue. Appellant filed a brief on March 9, 2018. By letter dated March 22, 2018, we informed appellant her brief failed to comply with the requirements of Texas Rule of Appellate Procedure 38.1. *See* TEX. R. APP. P. 38.1. Specifically, the brief was deficient in that (1) it did not contain a statement of the case, course of proceedings, or the trial court's disposition of the case; (2) it did not concisely state all issues presented for review; (3) it did not contain a statement of facts with references to the record; (4) it did not contain a succinct, clear, and accurate summary of the arguments made in the body of the brief; (5) the argument did not contain appropriate citations to the record; and (6) it did not contain a short conclusion clearly stating the nature of the relief sought. *See id.* 38.1(d), (f), (g), (h), (i) and (j). We provided appellant an opportunity to file an amended brief that complied with the requirements

of appellate rule 38.1 no later than April 2, 2018 and cautioned her that failure to comply might result in dismissal of the appeal without further notice. *See id.* 38.8(a)(1); 42.3 (b), (c).

We then afforded appellant numerous extensions. On March 23, 2018, appellant filed a motion for extension of time to file an amended brief. The motion was granted and the time was extended to May 1, 2018. On April 20, 2018, appellant filed a motion to appoint counsel. By order dated May 1, 2018, we denied appellant’s motion but, on the Court’s own motion, extended the deadline to file a brief to May 31, 2018. On May 30, 2018, appellant filed a motion to compel mediation. By order dated June 12, 2018, we denied appellant’s motion, informed appellant of the previous extensions the Court had granted her to file a corrected brief, and, on the Court’s own motion, extended appellant’s deadline to file the brief to July 12. Again, we expressly cautioned appellant that further requests for extension would be disfavored and that failure to file an amended brief that complies with the Texas Rules of Appellate Procedure by July 12, 2018 may result in dismissal of the appeal without further notice. For the reasons stated below, we conclude appellant’s brief is deficient and dismiss the appeal.

Although individuals have the right to represent themselves *pro se* in civil litigation, they are held to the same rules of appellate procedure that licensed attorneys are required to follow. *See Bolling v. Farmers Branch Indep. Sch. Dist.*, 315, S.W.3d 893, 895 (Tex. App.—Dallas 2010, no pet.). Appellate court judges are not responsible for “identifying possible trial court error” or for reviewing the record to find favorable facts that may support a party’s position. *Id.* Importantly, under rule 38.1(f), the court “must be able to discern what question[s] of law [it] will be answering.” *Id.* at 896. A brief fails if it does not articulate the issues to be answered by the court. *Id.* If a brief articulates the issues to be decided by the court, “then rule 38.1(i) calls for the brief to guide [the court] through the appellant’s argument with clear and understandable statements of the contentions being made.” *Id.* Under rule 38.1(i), appellant’s argument must make direct

references to facts in the record and applicable legal authority. *Id.* A brief fails under rule 38.1(i) if the court must speculate or guess if references to facts or legal authority “are not made or are inaccurate, misstated, or misleading.” *Id.*

Appellant’s brief consists of three hand-written pages of unsupported argument and does not clearly articulate any issues to be answered by the Court. Further, the brief does not contain any citations to the record or any citations to legal authority. Appellant’s brief is clearly incomplete as it leads to the Court to guess or speculate as to the issues, if any, raised. Therefore, appellant’s brief fails.

To date, appellant has not filed an amended brief or otherwise communicated with the Court regarding the status of this appeal. Accordingly, we dismiss the appeal. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b), (c).

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

DIANA MUÑOZ, Appellant

No. 05-17-01306-CV V.

LAURAL OAKS MEMORIAL INC. AND
HUGH G. BEARDEN II, Appellees

On Appeal from the County Court at Law
No. 3, Dallas County, Texas
Trial Court Cause No. CC-17-02194-C.
Opinion delivered by Chief Justice Wright.
Justices Evans and Brown participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered October 16, 2018.