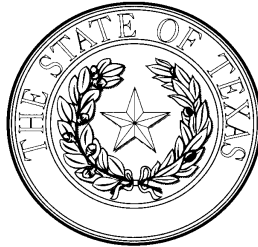


Opinion issued August 4, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00366-CV

E. JAVIER LOYA, JOSEPH KELLY, JR., AND EMELDA BEASLEY,
Appellants

V.

**JOHN F. KLOSEK, DERIVATIVELY ON BEHALF OF THE NOMINAL
DEFENDANT OTC GLOBAL HOLDINGS, LP, Appellee**

**On Appeal from the 270th District Court
Harris County, Texas
Trial Court Case No. 2019-88391**

MEMORANDUM OPINION

Appellants, E. Javier Loya, Joseph Kelly, Jr., and Emelda Beasley (collectively, “appellants”), have filed an unopposed “Motion to Effectuate Agreement.” In their appeal, appellants challenge the trial court’s April 13, 2020

order denying their motion to compel arbitration. On May 26, 2020, this Court issued an order staying the trial court proceedings.

In their motion, appellants state that the trial court's April 13, 2020 order denying their motion to compel arbitration has "effectively been nullified by the agreement" of appellee, John F. Klosek, acting derivatively on behalf of the nominal defendant OTC Global Holdings LP, to arbitrate the claims at issue. Appellants ask this Court to (1) render judgment that effectuates appellee's agreement to arbitrate; (2) set aside the trial court's orders without regard to the merits and remand to the trial court to effectuate appellee's agreement; or (3) abate the appeals and lift the stay for the limited purpose of permitting the trial court to effectuate appellee's agreement. *See* TEX. R. APP. P. 42.1(a)(2)(B) (allowing voluntary dismissal pursuant to agreement of parties and allowing appellate court to remand to trial court for rendition of judgment effectuating agreement of parties).

The certificate of conference included with appellants' motion indicates that appellee is not opposed to the relief sought in the motion. The motion has been on file more than ten days, no response to the motion has been filed, and no opinion has issued.

Accordingly, we lift the stay and grant appellants' motion. We set aside the trial court's order without regard to the merits, remand this cause to the trial court

for effectuation of the parties' agreement to arbitrate, and dismiss this appeal. *See* TEX. R. APP. P. 42.1(a)(2)(B), 43.2(e). We sua sponte direct the Clerk of this Court to issue the mandate within ten days of this opinion. *See* TEX. R. APP. P. 18.1(c). We dismiss any other pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Lloyd and Countiss.