

**Appeal Dismissed and Memorandum Majority and Dissenting Opinions
filed August 17, 2021.**



**In The
Fourteenth Court of Appeals**

NO. 14-21-00338-CV

PHARUS FUNDING LLC AS ASSIGNEE OF LHR, INC., Appellant

V.

DEBRA D. BAKER, Appellee

**On Appeal from the County Civil Court at Law No 3
Harris County, Texas
Trial Court Cause No. 858642**

MEMORANDUM DISSENTING OPINION

While I agree that an involuntary dismissal for want of jurisdiction appears warranted, the court fails to comply with Texas Rule of Appellate Procedure 42.3 and give the required ten days' notice to all parties of the involuntary dismissal. Tex. R. App. P. 42.3. The court could suspend the operation of Rule 42.3 in this case, order a different procedure, and explain the need to deviate from Rule 42.3,

but it does not. *See* Tex. R. App. P. 2 (authorizing suspension of rules).

I do not read the due-process provisions of Rule 42.3 to be discretionary unless we are willing to suspend the Rule and explain why suspension is warranted. I therefore dissent to dismissing the case without (1) providing notice and an opportunity to be heard as the Rule requires and (2) having the patience to wait ten days.

/s/ Charles A. Spain
Justice

Panel consists of Justices Wise, Jewell, and Spain (Wise, J., majority).