



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-19-00403-CV

**THE TEXAS BRANDON CORPORATION, INC.** and Ronald R. Wilson,  
Appellants

v.

**EOG RESOURCES, INC.** and Fred Levine,  
Appellees

From the 218th Judicial District Court, Karnes County, Texas  
Trial Court No. 16-03-00066-CVK  
Honorable Russell Wilson, Judge Presiding

Opinion by: Beth Watkins, Justice

Sitting: Rebeca C. Martinez, Justice  
Irene Rios, Justice  
Beth Watkins, Justice

Delivered and Filed: December 9, 2020

**AFFIRMED**

Appellants The Texas Brandon Corporation, Inc. (TTBC) and Ronald R. Wilson sued appellees EOG Resources, Inc. and Fred Levine seeking recovery of a working interest in a producing gas well. The trial court granted summary judgment in favor of EOG and Levine, and TTBC and Wilson appealed. We affirm the trial court's summary judgment.

**BACKGROUND**

Levine, TTBC, and several others entered into a joint venture agreement known as the Great Western Oil Venture (GWOV). The GWOV acquired the Schnitz-Riedel Unit Well No.1, a

producing well on a pooled unit covered by three leases. The GWOV assigned working interests in the leases to various parties, including a 4.1176% working interest to TTBC. Karbuhn Oil Company ultimately acquired all the working interests in the leases except for TTBC's 4.1176% working interest.

Karbuhn subsequently asked TTBC to participate in a recompletion of the Schnitz-Riedel Unit Well No. 1 to restore production so that the lease covering the well could be saved. According to EOG, TTBC did not participate in the lease-saving operation and became a "non-consenting party" that forfeited its 4.1176% working interest. Karbuhn solely operated all the leases in the pooled unit until it assigned all its working interest in the leases to EOG, who currently operates the leases exclusively.

TTBC and Wilson sought recovery of its 4.1176% working interest and they sued EOG, Levine, and others for trespass to try title, declaratory judgment, breach of contract, breach of fiduciary duty, negligence, gross negligence, conversion, fraud, and discrimination claims. The trial court granted Levine and EOG's motions for summary judgment on the claims TTBC and Wilson asserted, then severed those claims. TTBC and Wilson appealed.

#### ANALYSIS

TTBC and Wilson argue that the trial court erred in granting summary judgment in favor of Levine and EOG because "[t]he[re] were no facts to support the outrageous decisions." TTBC and Wilson claim they had a "written bank of facts" and the "judgment is not supported by factually sufficient evidence."

In response, EOG and Levine assert that TTBC and Wilson have waived their appellate complaints by failing to brief them in accordance with the Texas Rules of Appellate Procedure. In the alternative, they argue TTBC and Wilson failed to raise any fact issues to preclude summary judgment.

*Applicable Law on Brief Waiver*

The Texas Rules of Appellate Procedure provide specific requirements for appellate briefs, and appellants bear the burden to present their arguments in compliance with these rules. TEX. R. APP. P. 38; *Cruz v. Van Sickle*, 452 S.W.3d 503, 511 (Tex. App.—Dallas 2014, pet. denied). “These rules require appellants to state their complaint concisely; to provide understandable, succinct, and clear argument for why their complaint has merit in fact and in law; and to cite and apply law that is applicable to their complaint along with record references that are appropriate.” *Eco Planet, LLC v. ANT Trading*, No. 05-19-00239-CV, 2020 WL 6707561, at \*5 (Tex. App.—Dallas Nov. 16, 2020, no pet. h.) (mem. op.) (Osborne, J., concurring) (citing TEX. R. APP. P. 38.1(f), (h), (i)). “An issue presented for appellate review is sufficient if it directs the reviewing court’s attention to the error about which the complaint is made.” *Canton-Carter v. Baylor Coll. of Med.*, 271 S.W.3d 928, 931 (Tex. App.—Houston [14th Dist.] 2008, no pet.). Conclusory statements unsupported by legal or record citations do not satisfy this requirement, and failure to provide substantive analysis will result in a waiver of complaints. *Id.*

*Application*

The appellants’ brief does not contain a clear and concise legal argument with appropriate citations to authorities. *See id.* Here, EOG and Levine’s motions set forth numerous grounds on which they contend summary judgment could have been granted. The summary judgment orders do not specify which ground or grounds the trial court found persuasive. Therefore, on appeal, TTBC and Wilson were required to challenge every ground to prevail. *See Britton v. Tex. Dep’t of Criminal Justice*, 95 S.W.3d 676, 681–82 (Tex. App.—Houston [1st Dist.] 2002, no pet.).

Appellants do not identify an applicable standard of review or provide substantive legal analysis explaining how the trial court erred. *See* TEX. R. APP. P. 38.1(f), (h), (i); *Canton-Carter*, 271 S.W.3d at 931. Nor do they point to any evidence they produced in response to EOG and

Levine's motions which should have precluded a summary judgment. Instead, their brief consists of a series of conclusory allegations asserting that Levine breached his fiduciary duty and committed fraud when he entered into an agreement with Karbuhn to dissolve the GWOV. Appellants further assert Levine and EOG committed "criminal acts" by forging Wilson's signature on a First Amendment Joint Venture Agreement. These allegations are surrounded by disjointed factual assertions, rhetorical questions, and cryptic complaints.

We may not perform an independent review of the record and applicable law to craft these allegations into a coherent legal argument. *See Canton-Carter*, 271 S.W.3d at 931–32. To do so would mean we would abandon our roles as judges and become advocates for TTBC and Wilson. *See id.* Accordingly, even though we generally disfavor resolving an appeal on inadequate briefing, we hold TTBC and Wilson have waived their issues on appeal by failing to provide us with any substantive argument that might make their complaints viable.

#### CONCLUSION

We affirm the trial court's judgment.

Beth Watkins, Justice