



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-12-00008-CV

LOUIS COGNATA, Appellant

V.

DOWN HOLE INJECTION, INC., Appellee

On Appeal from the 145th District Court
Nacogdoches County, Texas
Trial Court No. C21,875-2005

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Due to a procedural anomaly, Louis Cognata, appellant, filed two appeals in this case in two different appellate districts. While the lawsuit forming the basis of this appeal was filed by Down Hole Injection, Inc., in the 145th Judicial District Court of Nacogdoches County, a discovery dispute arose when depositions were being taken in Houston, and the 127th Judicial District Court of Harris County was called on to resolve that dispute. As a result of the discovery issues in Houston, the 127th Judicial District Court imposed a \$21,000.00 discovery sanction against Cognata, and, in 2006, Cognata appealed that sanction order to the Fourteenth Court of Appeals in Houston. While that appeal was pending, Down Hole Injection, Inc., appellee, nonsuited the underlying lawsuit in the 145th Judicial District Court. In January 2012, Cognata appealed the grant of Down Hole Injection's nonsuit to the Twelfth Court of Appeals in Tyler. Subsequently, that appeal was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts.¹ *See* TEX. GOV'T CODE ANN. § 73.001 (West 2013).

We abated this appeal April 26, 2012, pending the decision of the Fourteenth Court in the companion appeal, cause number 14-06-00976-CV. The Fourteenth Court issued its decision June 19, 2012, Cognata's petition for discretionary review of that decision was denied by The Supreme Court of Texas November 30, 2012, and the Fourteenth Court's mandate issued January 18, 2013. As a result, on February 25, 2013, we lifted the abatement in this appeal and ordered the clerk to reinstate the matter on the docket. We further informed Cognata in our February 25 order that he had thirty days from the date of the order to file a brief in this matter.

¹We are unaware of any conflict between precedent of the Twelfth Court of Appeals and that of this Court on any relevant issue. *See* TEX. R. APP. P. 41.3.

Finally, we warned Cognata that failure to file a brief within the time allotted would result in dismissal of the appeal for want of prosecution. *See* TEX. R. APP. P. 42.3(b), (c).

We have received nothing from Cognata. Pursuant to Rule 42.3, we dismiss this appeal for want of prosecution. *See* TEX. R. APP. P. 42.3(b).

Bailey C. Moseley
Justice

Date Submitted: April 15, 2013
Date Decided: April 16, 2013