

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00365-CV

James C. Mosser and Mosser Law PLLC, Appellants

v.

Bob Mims, Appellee

**FROM THE DISTRICT COURT OF TOM GREEN COUNTY, 340TH JUDICIAL DISTRICT
NO. C-13-0102-C, HONORABLE JAY K. WEATHERBY, JUDGE PRESIDING**

MEMORANDUM OPINION

James C. Mosser and his law firm, Mosser Law PLLC, appeal a final order imposing sanctions based on findings that they violated Rule 13 of the Rules of Civil Procedure and Chapter 10 of the Civil Practice and Remedies Code. The sanctions were addressed to the representation by Mosser and the firm of Ben Melton in pursuit of claims against Bob Mims in the same underlying litigation addressed in our recent opinion in *Melton v. CU Members Mortgage*.¹ As with the summary-judgment order in *Melton*, the sanctions order here was premised (at least in part) on a view that limitations barred certain claims asserted on Melton's behalf—a view subsequently rejected by the Texas Supreme Court's intervening decision in *Wood v. HSBC Bank USA, N.A.*² Although there were alternative grounds for the sanctions order, we cannot presume the district court

¹ See *Melton v. CU Members Mortg.*, No. 03-15-00339-CV, 2017 Tex. App. LEXIS 1441 (Tex. App.—Austin Feb. 22, 2017, no pet.) (mem. op.).

² 505 S.W.3d 542, 544, 547–51 (Tex. 2016).

would have exercised its discretion the same way with the benefit of *Wood's* guidance. Accordingly, we must reverse the sanctions order (as with the summary judgment in *Melton*) and remand for further proceedings.

Bob Pemberton, Justice

Before Chief Justice Rose, Justices Pemberton and Bourland

Reversed and Remanded

Filed: May 3, 2017