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February 2, 2024

Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

VIA email opinion.committee@oag.texas.gov

Re: Request for Attorney General Opinion regarding whether Texas Property Code §52.002 requires the District Clerk to prepare an abstract of judgment rendered by a Court of Appeals.

Dear Opinion Committee:

The Parker County Attorney's Office requests your formal opinion on behalf of the Parker County District Clerk's Office who has requested our assistance in this matter.

FACTUAL BACKGROUND

On July 20, 2023, the Second Court of Appeals rendered judgment in cause number 02-22-00272-CV:

- 1) Finding the 415th Judicial District Court of Parker County did not have jurisdiction;
- 2) Reversing the District Court’s Judgment and dismissing the underlying civil case; and
- 3) Assessing costs on appeal against Appellee.

On October 18, 2022, the Clerk of the Second Court of Appeals sent the Mandate and Bill of Costs to the Parker County District Clerk.

On January 8, 2024, Appellant’s attorney filed an Application for Abstract of Judgment with the Parker County District Clerk’s Office.

STATUTORY BACKGROUND

§52.002(a) of the Texas Property Code requires the clerk of the court that rendered a judgment to prepare an abstract upon application by a person in whose favor the judgment was rendered. §52.002(b) Tex. Prop. Code allows the attorney of a person in whose favor a judgment is rendered in a small claims, justice court, or other court, to prepare the abstract of judgment.

Rule 51.1(b) of the Texas Rules of Appellate Procedure states:

“When the trial court clerk receives the mandate, the appellate court’s judgment must be enforced. Appellate court costs must be included with the trial court costs in any process to enforce the judgment. If all or part of the costs are collected, the trial court clerk must immediately remit to the appellate court clerk any amount due to that clerk. The trial court need not make any further order in the case, and the appellate court’s judgment may be enforced as in other cases, when the appellate judgment:

- 1) Affirms the trial court’s judgment;
- 2) Modifies the trial court’s judgment and, as so modified, affirms that judgment; or
- 3) Renders the judgment the trial court should have rendered.

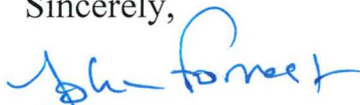
QUESTION

In this instance, Appellant is seeking to have the Parker County District Clerk (“District Clerk”) abstract a judgment that was not rendered by any Parker County District Court. The District Clerk questions whether §52.002 of the Texas Property Code requires her to abstract a judgment issued by an appellate court when the trial court lacks jurisdiction over

the underlying case, the trial court's judgment has been reversed, and the underlying civil case dismissed.

Thank you in advance for your assistance in this matter.

Sincerely,



John Forrest

County Attorney

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