

SPOLIATION AND SANCTIONS UPDATE

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Sanctions against Litigant for Groundless Pleadings

- *Nath v. Texas Children's Hospital*,
446 S.W.3d 355 (Tex. 2014)
- TEX. CIV. PRAC. & REM. CODE, Ch. 10
- TEX. R. CIV. P. 13

Nath

TEX. CIV. PRAC. & REM. CODE § 10.001

- A signatory attests that:
 - (1) pleading or motion is not for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation;
 - (2) each claim is warranted by existing law or by a nonfrivolous argument for its extension; and
 - (3) each factual contention has evidentiary support or is likely to have evidentiary support after opportunity for discovery
- A court may **not** sanction a represented party for unfounded **legal** contentions.

Nath

Rule 13

- Signatures constitute certificate they read pleading, motion, or other paper and to the best of their knowledge, information, and belief formed after reasonable inquiry the instrument is not (1) groundless **and** (2) brought in bad faith **or** for the purpose of harassment.
- Courts presume filed in good faith
- “Groundless” means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law.
- No sanctions on groundlessness alone

Nath

Due process: *TransAmerican* factors

- *TransAmerican Natural Gas Corp. v. Powell*, 811 S.W.2d 913 (Tex. 1991), announced analysis to determine if discovery sanctions comply with constitutional due process.
- Same analysis governs groundless pleadings sanctions:
 - (1) Must be directed against abusive conduct, aimed at remedying prejudice caused to innocent party, and must be visited upon true offender
 - (2) Must not be excessive (i.e., must fit the crime and be no more severe than necessary) and court must consider lesser sanctions

Nath

Case Remanded

- In a 5-4 decision, the Court reversed and remanded.
 - Dissent would have affirmed.
- All justices agreed sanction against Nath met due process requirements: as client, “his petitions were filed for the improper purpose of pursuing an unrelated issue and advancing time-barred claims”
- Court remanded for the trial court to reassess the amount of the sanction.

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