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Trial Courts Must Explain Reason for Granting New Trial

Posted on July 5, 2009 by D. Todd Smith

Historically, Texas trial judges have been afforded very broad discretion in granting new trials. Readers who took a Texas civil procedure course in law school may recall being taught that an order granting a new trial may be reviewed under only two circumstances: (1) when the order is void (such as when the trial court lacked jurisdiction); or (2) when the trial court erroneously concluded that answers in the jury charge irreconcilably conflict. No more.

In *In re Columbia Medical Center of Las Colinas, Subsidiary, L.P.* (No. 06-0416) (orig. proceeding), the Texas Supreme Court has significantly narrowed trial courts' discretion by holding that parties who choose to have a dispute resolved by a jury "and endure the personal and financial inconvenience of such a trial are entitled to know why the verdict was disregarded . . . ."

In an opinion authored by Justice Johnson (joined by Justices Hecht, Wainwright, Brister, and Willett), the supreme court explained:

> We do not retreat from the position that trial courts have significant discretion in granting new trials. However, such discretion should not, and does not, permit a trial judge to substitute his or her own views for that of the jury without a valid basis. A trial court's actions in refusing to disclose the reasons it set aside or disregarded a jury verdict is no less arbitrary to the parties and public than if an appellate court did so. The trial court's action in failing to give its reasons for disregarding the jury verdict as to Columbia was arbitrary and an abuse of discretion.
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> In *Johnson* [*v. Fourth Court of Appeals*, 700 S.W.2d 916 (Tex. 1985)], we held that a trial court may, in its discretion, grant a new trial "in the interest of justice" . . . . However, for the reasons stated above, we believe that such a vague explanation in setting aside a jury verdict does not enhance respect for the judiciary or the rule of law, detracts from transparency we strive to achieve in our legal system, and does not sufficiently respect the reasonable expectations of parties and the public when a lawsuit is tried to a jury. Parties and the public generally expect that a trial followed by a jury verdict will close the trial process. Those expectations may be overly optimistic, practically speaking, but the parties and public are entitled to an understandable, reasonably specific explanation why their expectations are frustrated by a jury verdict being disregarded or set aside, the trial process

> being nullified, and the case having to be retried. To the extent statements or holdings in our prior cases conflict with our decision today, we disapprove of them.

Interestingly, the supreme court relied on "the significance of the issue"— identified as "protection of the right to jury trial"—as warranting a conclusion that the case involved the kind of exceptional circumstances justifying mandamus relief. But the majority opinion never explained this connection (*i.e.* how the new-trial order denied the relator's right to jury trial) and did not reach the relator's constitutional arguments.

In a companion decision issued the same day, *In re Baylor Medical Center at Garland* (No. 06-0491) (orig. proceeding), the same five-justice majority held that a trial court abused its discretion by refusing to render judgment on a jury verdict and granting a new trial without explaining its reasons for doing so. The supreme court conditionally granted mandamus relief. (I discussed a previous opinion in this case here.)

Justice O'Neill (joined by Chief Justice Jefferson, and Justices Medina and Green) dissented in both cases. (The dissenting opinions are linked here and here). Justice O'Neill derided the use of mandamus in circumstances she deemed far from extraordinary and expressed that these decisions have improperly expanded the writ's reach. Justice O'Neill further concluded that the matter would be more appropriately addressed through a rule change and, "[u]ntil then, no jurisprudential imperative compels us to overturn more than a century of clear precedent and erode the broad discretion we have traditionally afforded trial courts in granting new trials when they perceive good cause to do so."

Though orders granting new trials are fairly rare, trial judges have no doubt relied on the rule that such orders are virtually unreviewable on appeal. That may still be, if the court provides an explanation rising to the level of "good cause" under TRCP 320. Whether a particular explanation satisfies that undefined standard will be the subject of future litigation. In the meantime, merely requiring the explanation reflects a significant shift in Texas law.

Update 7/6/09: On my initial pass through last week's orders, I missed another related case, *In re E.I. du Pont de Nemours & Co.* (08-0625), which was decided without oral argument. There, the same five-member majority held that the trial court abused its discretion by disregarding a jury verdict and granting a new trial without providing its reasons for doing so. The same four justices dissented.