

IN THE SUPREME COURT OF TEXAS

No. 07-0228

GRAHAM OAKS CARE CENTER, INC., NEW GRAHAM OAKS CARE CENTER, INC.
AND GRAHAM OAKS CARE CENTER, PETITIONERS,

v.

ALLAGRA FARABEE AND EARLENE PRICE, AS NEXT FRIEND OF ALLAGRA
FARABEE, RESPONDENTS

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE SECOND DISTRICT OF TEXAS

PER CURIAM

Allagra Farabee and Earlene Price, as next friend of Alagra Farabee, filed this suit claiming Graham Oaks Center, Inc., New Graham Oaks Care Center, Inc., and Graham Oaks Care Center (Graham Oaks) negligently caused the amputation of Allagra Farabee's right arm. As required by statute and in support of her claim, Farabee timely served the curriculum vita and expert reports of Dr. Robert L. McBroom and registered nurse Wimberly Oloomi.¹ Graham Oaks moved for dismissal and attorney's fees on the ground that the expert reports were inadequate,² but the trial court denied the motion.

¹ TEX. CIV. PRAC. & REM. CODE § 74.351(a).

² *Id.* § 74.351(b).

Graham Oaks filed a timely interlocutory appeal with the Second Court of Appeals, which dismissed for want of jurisdiction.³ For the reasons stated today in *Lewis v. Funderburk*,⁴ we hold that Graham Oaks' motion seeking dismissal and fees was a motion pursuant to section 74.351(b), and thus reviewable by interlocutory appeal when the trial court denied it.⁵ The court of appeals erred by concluding otherwise.

Accordingly, we grant the petition for review, and without hearing oral argument, TEX. R. APP. P. 59.1, we reverse the court of appeals' judgment and remand the case to that court to consider the remaining arguments raised by the interlocutory appeal.

OPINION DELIVERED: April 11, 2008

³ ____ S.W.3d ____.

⁴ ____ S.W.3d ____ (Tex. 2007).

⁵ TEX. CIV. PRAC. & REM. CODE § 51.014(a)(9).