

IN THE SUPREME COURT OF TEXAS

=====
No. 07-0368
=====

HILL REGIONAL HOSPITAL, PETITIONER,

v.

MAXINE RUNNELS, INDIVIDUALLY AND AS HEIR TO AND ON BEHALF OF THE
ESTATE OF GLENDON RUNNELS DECEASED AND TAMMY RUNNELS WALKER AND
GLEN PAUL RUNNELS, INDIVIDUALLY, RESPONDENTS

=====
ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE TENTH DISTRICT OF TEXAS
=====

PER CURIAM

The surviving wife and adult children of Glendon Runnels filed this suit claiming Hill Regional Hospital¹ was negligent in failing to diagnose and treat a pulmonary embolism. As required by statute, within 120 days of filing Runnels served curriculum vita and expert reports signed by Dr. Jeffrey Kopita and registered nurse Debora Simmons.² Hill Regional Hospital moved for dismissal and attorney's fees on the ground that the expert reports were inadequate,³ but the trial court denied the motion.

¹ Although Runnels sued other parties, only Hill Regional Hospital is a party to this appeal.

² TEX. CIV. PRAC. & REM. CODE § 74.351(a).

³ *Id.* 74.351(b).

Hill Regional Hospital filed a timely interlocutory appeal with the Tenth Court of Appeals, which dismissed for want of jurisdiction.⁴ For the reasons stated today in *Lewis v. Funderburk*,⁵ we hold that Hill Regional Hospital's 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.⁶ 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

⁴ ___ S.W.3d ___.

⁵ ___ S.W.3d ___ (Tex. 2007).

⁶ TEX. CIV. PRAC. & REM. CODE § 51.014(a)(9).