

AFFIRM; and Opinion Filed January 18, 2018.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00175-CV

FREDERICK R. LYNCH, Appellant

V.

**TIM O'HARE, DAVID R. RAGSDALE, AND THE LAW OFFICES OF TIM O'HARE,
Appellees**

**On Appeal from the 162nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-12510**

MEMORANDUM OPINION

Before Justices Francis, Evans, and Boatright
Opinion by Justice Boatright

Appellant sued appellees alleging legal malpractice in their handling of his personal injury lawsuit. The trial court granted appellees' traditional and no-evidence motion for summary judgment on all of appellant's claims. In a single issue, appellant argues that because no reporter's record was made of the summary judgment hearing, he is unable to present meaningful issues on appeal. He relies on two rules of appellate procedure—rules 13.1 and 34.6(f)—in arguing the lack of a reporter's record entitles him to a new trial.

Rule 13.1 lists the duties of a court reporter. TEX. R. APP. P. 13.1. It does not require that there be a record of a summary judgment hearing. *Id.* The Texas Supreme Court has held that creating a reporter's record is neither necessary nor appropriate to the purposes of a summary

judgment hearing. *Schneider Nat'l Carriers, Inc. v. Bates*, 147 S.W.3d 264, 292 n. 141 (Tex. 2004).

Rule 34.6(f) provides that an appellant is entitled to a new trial if a significant exhibit or portion of a reporter's record is lost or destroyed. TEX. R. APP. P. 34.6(f). Both parties acknowledge a reporter's record was never made. Therefore, Rule 34.6 does not apply to this case.

Appellant has shown no error. We overrule his single issue and affirm the trial court's Order Granting Defendants' Traditional and No Evidence Motion for Summary Judgment.

/Jason Boatright/
JASON BOATRIGT
JUSTICE

170175F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

FREDERICK R. LYNCH, Appellant

No. 05-17-00175-CV V.

TIM O'HARE, DAVID R. RAGSDALE,
AND THE LAW OFFICES OF TIM
O'HARE, Appellees

On Appeal from the 162nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DC-15-12510.

Opinion delivered by Justice Boatright.

Justices Francis and Evans participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellees TIM O'HARE, DAVID R. RAGSDALE, and THE LAW OFFICES OF TIM O'HARE recover their costs of this appeal from appellant FREDERICK R. LYNCH.

Judgment entered this 18th day of January, 2018.