

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION** Michael

**AUG - 5 1997 KD**

Michael N. Milby, Clerk of Court

**NOEL C. ALLEN, Individually  
and on behalf of the Estate of  
TRAVIS O'NEILL ALLEN, AND  
REBECCA O'NEILL ALLEN**

v.

**C.A. NO. H-96-0030**

**MICHAEL LEAL, CARLE UPSHAW  
DANIEL SHELOR, BELLAIRE POLICE  
DEPARTMENT AND CITY OF  
BELLAIRE, TEXAS**

## NOTICE OF INTERLOCUTORY APPEAL

Defendants, Michael Leal and Carle Upshaw, hereby give notice of their appeal of this Honorable Court's Order of August 4, 1997 denying them qualified immunity, through the Court's denial of their motion for summary judgment.

Respectfully submitted,

Bin the first

**WILLIAM S. HELFAND**  
**SBOT: 09388250**  
**ATTORNEY FOR DEFENDANTS**

OF COUNSEL:

**MAGENHEIM, BATEMAN, ROBINSON  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been forwarded to the following counsel of record by certified mail, return receipt requested, hand-delivery, and/or facsimile transmission, on this 4th day of August, 1997, as follows:

Blake Haynes  
RICHARD HAYNES & ASSOCIATES  
4300 Scotland  
Houston, Texas 77007-7394

**CM/RRR N<sup>o</sup> P 559 738 445**

  
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WILLIAM S. HELFAND