IN THE COURT OF APPEALS FIRST JUDICIAL DISTRICT OF TEXAS

Blogger Inc. and Mark Burke,	)	APPELLANTS MOTION TO ABATE
	)	
Appellants,	)	**CASE No. 01-25-00401-CV**
	)	
vs.	)	
	)	
Andrew P. Lehman,	)	
	)	
Appellee.	)	
	)	
	)	
	)	
	)	

APPELLANTS MOTION TO ABATE

TO THE HONORABLE JUSTICES OF THE COURT:

Appellants respectfully move to abate this appeal, which arises from *Lehman v. Blogger Inc.*, No. 202514896 (215th Dist. Ct., Harris County)—a procedurally defective attempt to domesticate a void $2 million California default judgment under the Uniform Enforcement of Foreign Judgments Act (UEFJA). That judgment, now under constitutional challenge, was pursued by Lehman while claiming indigency and filing under seal—without adversarial review or Rule 76a compliance. Since the filing of this appeal, Appellants have submitted five verified trial court interventions across Harris and Fort Bend Counties. These interventions raise serious procedural and representational concerns, including:

- Sealed pauper affidavits submitted without notice, hearing, or Rule 76a findings;
- Allegations of unauthorized filings on behalf of third parties;
- Disparate administrative treatment of identical filings (e.g., “Fort Bend Clerkgate”);
- Material inconsistencies in Lehman’s sworn financial declarations.

To support these concerns, Appellants submit two evidentiary compilations:

1. **APPELLANTS EXHIBIT LIST** in Support of Appellants' Motion to Waive Appellate Filing Fees Based on Unequal Application of Filing Fee Statutes, and which includes a Tabular Investigation of Vexatious Litigation Filed by Lehman—the vast majority under sworn indigency; and
2. **APPELLANTS IFP EXHIBIT LIST:** A Comprehensive Index of Lehman's Civil and Criminal IFP Filings, many of which contradict his sworn declarations elsewhere in the record.

These records, verified and cataloged across multiple jurisdictions, form a consistent pattern of procedural concealment and financial misrepresentation. Read together, they provide a factual matrix of calculated nondisclosure. The pattern is not incidental—it is rehearsed.

One particularly illustrative episode, referred to as "Fort Bend Clerkgate," reflects a breakdown in procedural integrity. Five identical interventions were filed in separate trial courts—yet only one was assessed a fee, and without judicial order or explanation. This administrative asymmetry underscores a broader failure of uniformity, transparency, and adversarial access.

Moreover, Appellants' investigation suggests that docket sealing often corresponded with increased public reporting. Whereas earlier filings remained visible, more recent pauper affidavits were sealed after Appellants published coverage on LawsinTexas.com—raising questions about motive and judicial responsiveness to public scrutiny.

In the interest of judicial economy, Appellants refrained from setting their pending Rule 76a motions for hearing. That procedural restraint should not be mistaken for acquiescence.

Appellants now respectfully request this Court exercise its inherent authority to ensure that appellate review is based on a complete and constitutional record.

Texas courts recognize that appellate review must be grounded in a complete and accessible record. In *In the Interest of A.B. and A.B., Children*, No. 02-24-00264-CV, 2025 WL 3932570 (Tex. App.—Fort Worth June 12, 2025, no pet.) (mem. op.), the Second Court of Appeals abated the appeal and ultimately remanded for a new trial after determining that a critical portion of the record was unavailable through no fault of the appellant. While Appellants here do not allege physical loss of transcripts, they present a comparably deficient record—one fractured by sealed indigency filings, contradictory sworn statements, and unadjudicated procedural irregularities across multiple courts. As in A.B., appellate oversight cannot proceed on partial or obscured facts. Where the record lacks integrity, abatement becomes not just permissible—but necessary.

RELIEF REQUESTED

Appellants respectfully request that this Court:

1. Abate this appeal pending resolution of the five trial court interventions and related Rule 76a motions to unseal indigency filings and dockets;

2. Order supplementation of the appellate record pursuant to Tex. R. App. P. 34.5(c) to include sealed filings and verified exhibits documenting Lehman's litigation history and pauper status;

3. Acknowledge the constitutional challenge certified under Tex. Gov't Code § 402.010 and served pursuant to Tex. R. Civ. P. 122, and permit supplemental filings as needed;

4. Grant such other and further relief as the Court deems just and proper.

CONCLUSION

The appellate record cannot be complete while relevant materials remain sealed in the trial court—particularly when those documents form the basis of alleged procedural and constitutional violations. Texas courts recognize the discretion to abate where transparency and due process are implicated.

Statutory authority supports intervention here:

- Tex. Gov't Code § 402.010 requires the Attorney General be notified when the constitutionality of a statute is challenged;

- Tex. R. Civ. P. 122 mandates service to ensure the state may respond appropriately.

Courts also retain discretion to supplement and clarify the record under Tex. R. App. P. 34.5(c)(1). See *Zule v. State*, 820 S.W.2d 801, 802 (Tex. Crim. App. 1991); *In re M-I L.L.C.*, 505 S.W.3d 569, 577–78 (Tex. 2016) (affirming open records presumption); Garcia v. Peeples, 734 S.W.2d 343, 349 (Tex. 1987); *Boardman v. Elm Block Dev. Ltd. P'ship*, 872 S.W.2d 297, 298–99 (Tex. App.—Eastland 1994, no writ).

This is not merely a collateral challenge—it is a constitutional and jurisdictional protest. The judgment is void on its face for lack of jurisdiction and service, and further compounded by procedural concealment and due process violations that permeate the record.

RESPECTFULLY submitted this 21st day of June, 2025.

I declare under penalty of perjury that the foregoing is true and correct. This declaration under Chapter 132, Civil Practice and Remedies Code.

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Mark Burke, individually and for Blogger Inc.
Harris County, State of Texas / Appellants

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing verified letter has been forwarded to all parties, witnesses and counsel of record who have an interest in this case by electronic filing notification and/or electronic mail and/or facsimile and/or certified mail, return receipt requested, this the 21st day of June, 2025. I further certify that the Office of the Attorney General of Texas has been served contemporaneously with this filing, as required by law. (The OAG has created the following email account for receipt of these forms: const_claims@texasattorneygeneral.gov).

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Mark Burke, individually and for Blogger Inc.
Harris County, State of Texas / Appellants