

**General Docket**  
**United States Court of Appeals for the Fifth Circuit**

**Court of Appeals Docket #:** 12-20296  
**Nature of Suit:** 3360 Other Personal Liability  
Robert Tolan, et al v. Jeffrey Cotton, et al  
**Appeal From:** Southern District of Texas, Houston  
**Fee Status:** Fee Paid

**Docketed:** 05/02/2012  
**Termed:** 06/17/2014

**Case Type Information:**  
1) Private Civil Federal  
2) Private  
3)

**Originating Court Information:**  
**District:** 0541-4 : [4:09-CV-1324](#)  
**Originating Judge:** Melinda Harmon, U.S. District Judge  
**Date Filed:** 05/01/2009  
**Date NOA Filed:** 04/27/2012

**Date Rec'd COA:**  
04/27/2012

**Prior Cases:**  
None

**Current Cases:**  
None

**Panel Assignment:**  
**Panel:** EHJ RHB LHS  
**Date of Hearing:** 03/04/2013    **Date of Decision:** 04/25/2013    **Date Completed:** 04/25/2013

ROBERT R. TOLAN  
Plaintiff - Appellant

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BOBBY TOLAN  
Plaintiff - Appellant

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MARIAN TOLAN  
Plaintiff - Appellant

(see above)

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ANTHONY COOPER  
Plaintiff - Appellant

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v.

JEFFREY WAYNE COTTON  
Defendant - Appellee

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(see above)

CITY OF BELLAIRE, TEXAS

**Terminated:** 10/03/2012

Defendant - Appellee

ROBERT R. TOLAN; MARIAN TOLAN,




























Plaintiffs - Appellants

v.

JEFFREY WAYNE COTTON




















Defendant - Appellee

05/02/2012	<input type="checkbox"/>	PRIVATE CIVIL FEDERAL CASE docketed. NOA filed by Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan [12-20296] (LBM) 13 pg, 192.93 KB
05/03/2012	<input type="checkbox"/>	CASE CAPTION updated. Additional appeal filed. [7079268-2] NOA filed on 05/01/2012 (Dkt #89) by Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan. [7079268-1] [12-20296] (CAG)
05/09/2012	<input type="checkbox"/>	INITIAL CASE CHECK by Attorney Advisor complete, Action: Case OK to Process. [7083132-2] Initial AA Check Due satisfied.. Notice of Certified ROA due on 05/24/2012. [12-20296] (Jd)
05/17/2012	<input type="checkbox"/>	APPEARANCE FORM FILED by Attorney George R. Gibson for Appellant Anthony Cooper in 12-20296, Attorney George R. Gibson for Appellant Marian Tolan in 12-20296, Attorney George R. Gibson for Appellant Bobby Tolan in 12-20296, Attorney George R. Gibson for Appellant Robert R. Tolan in 12-20296 [12-20296] (Jd)
05/17/2012	<input type="checkbox"/>	APPEARANCE FORM FILED by Attorney(s) Martin Jonathan Siegel for party(s) Appellant Robert R. Tolan Appellant Anthony Cooper Appellant Bobby Tolan Appellant Marian Tolan, in case 12-20296 [12-20296] (Jd)
05/18/2012	<input type="checkbox"/>	NOTICE RECEIVED FROM DISTRICT COURT. ROA Certified by DCt, FILED Certified ROA due deadline satisfied. [12-20296] (Jd)
05/18/2012	<input type="checkbox"/>	BRIEFING NOTICE ISSUED. A/Pet's Brief Due on 06/27/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan, Robert R. Tolan. [12-20296] (Jd)
06/01/2012	<input type="checkbox"/>	UNOPPOSED MOTION filed by Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan to extend time to file brief as appellant until 08/06/2012 at 11:59 pm [7100194-2]. Date of service: 06/01/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellee: Giles [12-20296] (Martin Jonathan Siegel )
06/01/2012	<input type="checkbox"/>	CLERK ORDER granting motion to extend time to file appellant's brief filed by Appellants Mr. Robert R. Tolan, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Anthony Cooper [7100194-2] A/Pet's Brief deadline updated to 08/06/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan, Robert R. Tolan. [12-20296] (Jd)
08/06/2012	<input type="checkbox"/>	APPELLANT'S BRIEF FILED by Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan <i>Appellants' Brief and Record Excerpts</i> Date of service: 08/06/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellee: Giles; US mail - Attorney for Appellee: Giles [12-20296] REVIEWED AND/OR EDITED. # of Copies Provided: 0. A/Pet's Brief deadline satisfied. Appellee's Brief due on 09/10/2012 for Appellees City of Bellaire Texas, Jeffrey Wayne Cotton, John C. Edwards. Paper Copies of Brief due on 08/13/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan, Robert R. Tolan. [12-20296] (Martin Jonathan Siegel )
08/06/2012	<input type="checkbox"/>	RECORD EXCERPTS FILED by Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan. Date of service: 08/06/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellee: Giles; US mail - Attorney for Appellee: Giles [12-20296] REVIEWED AND/OR EDITED.. # of Copies Provided: 0. Paper Copies of Record Excerpts due on 08/13/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan, Robert R. Tolan. [12-20296] (Martin Jonathan Siegel )
08/07/2012	<input type="checkbox"/>	Paper copies of appellant brief filed by Appellants Mr. Robert R. Tolan, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Anthony Cooper in 12-20296 received. Paper copies match electronic version of document? Yes. # of Copies Provided: 7. Paper Copies of Brief due deadline satisfied. [12-20296] (Jd)
08/07/2012	<input type="checkbox"/>	Paper copies of record excerpts filed by Appellants Mr. Robert R. Tolan, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Anthony Cooper in 12-20296 received. Paper copies match electronic version of document? Yes # of Copies Provided: 4. Paper Copies of Record Excerpts due deadline satisfied. [12-20296] (Jd)
08/10/2012	<input type="checkbox"/>	APPEARANCE FORM FILED by Attorney(s) William S. Helfand for party(s) Appellee City of Bellaire Texas Appellee Jeffrey Wayne Cotton Appellee John C. Edwards, in case 12-20296 [12-20296] (Jd)
08/10/2012	<input type="checkbox"/>	APPEARANCE FORM FILED by Attorney Norman Ray Giles for Appellee John C. Edwards in 12-20296, Attorney Norman Ray Giles for Appellee Jeffrey Wayne Cotton in 12-20296 [12-20296] (Jd)
08/24/2012	<input type="checkbox"/>	PHONE EXTENSION CONFIRMED for Appellees City of Bellaire Texas, Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards. Extension granted to and including 10/01/2012. E/Res's Brief deadline updated to 10/01/2012 for Appellees City of Bellaire Texas, Jeffrey Wayne Cotton, John C. Edwards [12-20296] (AS)

- 09/27/2012   UNOPPOSED MOTION filed by Appellees City of Bellaire Texas, Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards to extend time to file brief of appellee until 10/22/2012 [7192136-2]. Date of service: 09/27/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] REVIEWED AND/OR EDITED. UNOPPOSED MOTION filed by Appellee City of Bellaire Texas to extend time to file brief of appellee until 10/22/2012 [7192136-2]. Date of service: 09/27/2012 [12-20296] (William S. Helfand )  
4 pg, 28.29 KB
- 09/28/2012   LETTER filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards Date of Service: 09/28/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] REVIEWED AND/OR EDITED. LETTER filed advising that appellee, City of Bellaire, Texas, should not be an appellee at the appellate level. [12-20296] (William S. Helfand )  
1 pg, 208.77 KB
- 09/28/2012   LETTER OF ADVISEMENT. Reason: appellee advising that City of Bellaire, Texas should not be an appellee at the appellate level. Notice to counsel for appellant requesting response w/in 15 days advising whether or not City of Bellaire, Tx, is an appellee. Absent a response will result in City of Bellaire, Tx being removed from the docket [12-20296] (JMW)  
2 pg, 295.46 KB
- 09/28/2012   CLERK ORDER granting motion to extend time to file appellee's brief filed by Appellees Mr. Jeffrey Wayne Cotton, Mr. John C. Edwards and City of Bellaire Texas [7192136-2] Appellee's Brief due on 10/22/2012 for Appellees City of Bellaire Texas, Jeffrey Wayne Cotton, John C. Edwards. [12-20296] (JMW)  
1 pg, 84.79 KB
- 10/02/2012   LETTER from Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan Date of Service: 10/02/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] REVIEWED AND/OR EDITED. LETTER filed referencing that appellee, City of Bellaire, Tx should not be a appellee at the appellate level [7193222-2]. [12-20296] (Martin Jonathan Siegel )  
2 pg, 61.9 KB
- 10/03/2012  CASE CAPTION updated. Involvement terminated for Appellee City of Bellaire Texas in 12-20296. Reason: party is not an appellee. [12-20296] (JMW)
- 10/03/2012   LETTER OF ADVISEMENT. Reason: advising that appellee, City of Bellaire, Tx, has been removed from the case and new caption [12-20296] (JMW)  
2 pg, 97.09 KB
- 10/22/2012   OPPOSED MOTION filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards to extend time to file brief of appellee until 11/01/2012 at 11:59 pm [7211106-2]. Date of service: 10/22/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] (William S. Helfand )  
4 pg, 30.85 KB
- 10/23/2012   CLERK ORDER denying motion to extend time to file appellee's brief filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards [7211106-2]. [12-20296] (JMW)  
1 pg, 84.86 KB
- 10/24/2012   OPPOSED MOTION filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards *To Reconsider Clerk's Denial of Their Motion for Extension of Time to File Appellees' Brief* for reconsideration of the Order dated 10/23/2012 [7212918-2]. Date of service: 10/24/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] (William S. Helfand )  
7 pg, 47.95 KB
- 10/25/2012   COURT ORDER granting motion for reconsideration filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards [7212918-2];[7213781-2] Appellee's Brief due on 11/01/2012 for Appellees Jeffrey Wayne Cotton, John C. Edwards Judge(s): LHS. [12-20296] (BCL)  
2 pg, 86.47 KB
- 11/01/2012   APPELLEE'S BRIEF FILED by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards. Date of service: 11/01/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] REVIEWED AND/OR EDITED. APPELLEE'S BRIEF FILED . # of Copies Provided: 0. E/Res's Brief deadline satisfied. Reply Brief due on 11/19/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan, Robert R. Tolan. Paper Copies of Brief due on 11/13/2012 for Appellees Jeffrey Wayne Cotton, John C. Edwards. [12-20296] (William S. Helfand )  
70 pg, 367.3 KB
- 11/09/2012  Paper copies of appellee brief filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards in 12-20296 received. Paper copies match electronic version of document? Yes # of Copies Provided: 7. Paper Copies of Brief due deadline satisfied. [12-20296] (Jd)
- 11/13/2012  RECORD ON APPEAL REQUESTED FROM DISTRICT COURT. ROA due on 11/28/2012 [12-20296] (Jd)
- 11/19/2012   APPELLANT'S REPLY BRIEF FILED by Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan Date of service: 11/19/2012 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand; US mail - Attorney for Appellees: Giles, Helfand [12-20296] REVIEWED AND/OR EDITED. # of Copies Provided: 0. Reply Brief deadline satisfied. Paper Copies of Brief due on 11/26/2012 for Appellants Anthony Cooper, Bobby Tolan, Marian Tolan and Robert R. Tolan. [12-20296] (Martin Jonathan Siegel )  
38 pg, 349.79 KB



11/20/2012		Paper copies of appellant reply brief filed by Appellants Mr. Robert R. Tolan, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Anthony Cooper in 12-20296 received. Paper copies match electronic version of document? Yes. # of Copies Provided: 7. Paper Copies of Brief due deadline satisfied. [12-20296] (Jd)
11/30/2012		RECORD ON APPEAL FILED. Electronic Pleadings, 14; ROA deadline satisfied. [12-20296] (PAC)
11/30/2012		1st SUPPLEMENTAL RECORD ON APPEAL FILED. Supp Electronic Pldg, 1; [12-20296] (PAC)
01/07/2013		CASE TENTATIVELY calendared for oral argument for the week of 03/04/2013. [12-20296] (GAM)
	1 pg, 64.88 KB	
01/17/2013		CASE CALENDARED for oral argument on Monday, 03/04/2013 in New Orleans in the East Courtroom -- AM session. In accordance with our policy, lead counsel only will receive via email at a later date a copy of the court's docket and an acknowledgment form. All other counsel of record should monitor the court's website for the posting of the oral argument calendars.. [12-20296] (SMH)
02/22/2013		SUPPLEMENTAL AUTHORITIES (FRAP 28j) FILED by Appellants Mr. Anthony Cooper, Mr. Bobby Tolan, Ms. Marian Tolan and Mr. Robert R. Tolan Date of Service: 02/22/2013 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] (Martin Jonathan Siegel )
03/04/2013		ORAL ARGUMENT HEARD before Judges Jones, Barksdale, Southwick. Arguing Person Information Updated for: William S. Helfand arguing for Appellee Jeffrey Wayne Cotton; Arguing Person Information Updated for: Martin Jonathan Siegel arguing for Appellant Anthony Cooper, Appellant Bobby Tolan, Appellant Marian Tolan [12-20296] (SMH)
04/25/2013		PUBLISHED OPINION FILED. [12-20296 Affirmed ] Judge: EHJ , Judge: RHB , Judge: LHS Mandate pull date is 05/16/2013 [12-20296] (JMA)
04/25/2013		JUDGMENT ENTERED AND FILED. [12-20296] (JMA)
	1 pg, 61.02 KB	
05/03/2013		BILL OF COSTS filed by Appellees Mr. Jeffrey Wayne Cotton and Mr. John C. Edwards. [12-20296] (Norman Ray Giles )
	1 pg, 288.26 KB	
05/09/2013		PETITION filed by Appellant Mr. Robert R. Tolan for rehearing en banc [7361461-2]. Date of Service: 05/09/2013 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] (Martin Jonathan Siegel )
	44 pg, 961.42 KB	
05/13/2013		PAPER COPIES REQUESTED for the petition for rehearing en banc filed by Appellant Mr. Robert R. Tolan in 12-20296 [7361461-2]. Mandate pull date canceled.. Paper Copies of Rehearing due on 05/20/2013 for Appellant Robert R. Tolan. [12-20296] (Jd)
	1 pg, 81.72 KB	
05/13/2013		Paper copies of petition for rehearing en banc filed by Appellant Mr. Robert R. Tolan in 12-20296 received. Paper copies match electronic version of document? Yes # of Copies Provided: 20. Paper Copies of Rehearing due deadline satisfied. [12-20296] (Jd)
05/23/2013		COURT DIRECTIVE ISSUED requesting a response to the petition for rehearing en banc filed by Appellant Mr. Robert R. Tolan in 12-20296 [7361461-2] Response/Opposition due on 06/03/2013. [12-20296] (JMW)
	2 pg, 113.88 KB	
06/03/2013		RESPONSE/OPPPOSITION filed by Mr. Jeffrey Wayne Cotton [7378302-1] to the petition for rehearing en banc filed by Appellant Mr. Robert R. Tolan in 12-20296 [7361461-2] Date of Service: 06/03/2013 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand. [12-20296] (Norman Ray Giles )
	39 pg, 178.97 KB	
06/03/2013		PAPER COPIES REQUESTED for the response/opposition filed by Appellee Mr. Jeffrey Wayne Cotton in 12-20296 [7378302-2]. Paper Copies of Response to Petition for Rehearing En Banc due on 06/10/2013 for Appellees Jeffrey Wayne Cotton and John C. Edwards. [12-20296] (Jd)
	1 pg, 81.89 KB	
06/10/2013		Paper copies of response/opposition filed by Appellee Mr. Jeffrey Wayne Cotton in 12-20296 received. Paper copies match electronic version of document? Yes # of Copies Provided: 20. Paper Copies of Response to Petition for Rehearing En Banc due deadline satisfied. [12-20296] (Jd)
06/11/2013		DOCUMENT RECEIVED - NO ACTION TAKEN. No action will be taken at this time on the letter dated 6/4/13, in further support of his pending petition for rehearing en banc from Appellant Mr. Robert R. Tolan because the court did not request [12-20296] (JMW)
	5 pg, 189.73 KB	

06/12/2013	 	MOTION filed by Appellant Mr. Robert R. Tolan for leave to file a reply to appellant's response to the pet for rehearing en banc [7385757-2]. Date of service: 06/12/2013 via email - Attorney for Appellants: Berg, Gibson, Siegel; Attorney for Appellees: Giles, Helfand [12-20296] (Martin Jonathan Siegel )
06/13/2013	 	COURT ORDER denying motion for leave to file a reply to the response to petition for rehearing en banc filed by Appellant Mr. Robert R. Tolan [7385757-2] Judge(s): RHB. [12-20296] (Jd)
08/01/2013	 	COURT ORDER denying petition for rehearing en banc (IN DETAIL) filed by Appellant Mr. Robert R. Tolan, JLD, joined by JEG, dissenting. MANDATE ISSUED FORTHWITH [7361461-2] With Poll. [12-20296] (JRS)
08/01/2013	 	MANDATE ISSUED FORTHWITH. The Bill of Costs is issued with the mandate. [12-20296] (Jd)
11/05/2013	 	SUPREME COURT NOTICE that petition for writ of certiorari [7496873-2] was filed by Appellant Mr. Robert R. Tolan on 10/29/2013. Supreme Court Number: 13-551. [12-20296] (CAV)
05/06/2014	 	SUPREME COURT ORDER received granting petition for writ of certiorari filed by Appellant Mr. Robert R. Tolan in 12-20296 on 05/05/2014. [7627501-1] [12-20296] (LGL)
05/06/2014	 	SUPREME COURT OPINION filed on 05/05/2014. Merits Ruling: Vacated/Remanded. Supreme Court Judgment due on 06/05/2014 [12-20296] Cert granted (JMW)
06/06/2014	 	SUPREME COURT JUDGMENT filed on 06/06/2014 remanding case to the 5th Circuit [12-20296] (DMS)
06/17/2014	 	UNPUBLISHED OPINION ORDER FILED on Remand from the Supreme Court of the United States. (ISSUED AS AND FOR THE MANDATE) [12-20296 Affirmed in Part, Vacated in Part and Remanded ] Judge: EHJ , Judge: RHB , Judge: LHS [12-20296] (DTG)
06/17/2014		MANDATE ISSUED [12-20296] (DTG)



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<b>Billable Pages:</b>	5	<b>Cost:</b>	0.50