

DISMISS and Opinion Filed August 30, 2019



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

No. 05-18-01493-CV

**DARLENE C. AMRHEIN, Appellant
V.
PROSPERITY BANK, JO'EL DOE, KEENA CLIFTON, AND NAOMI THAMES,
Appellees**

**On Appeal from the 199th Judicial District Court
Collin County, Texas
Trial Court Cause No. 199-05352-2016**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Molberg, and Justice Nowell
Opinion by Chief Justice Burns

Appellees have filed a motion to dismiss this appeal based, in part, on appellant's failure to file her brief. *See* TEX. R. APP. P. 38.8(a)(1). For the reasons that follow, we grant the motion.

Appellant's brief was first due June 28, 2019. Appellant did not file a brief but instead notified the Court she had filed for bankruptcy and asserted that, because of the Bankruptcy Code's automatic stay, the appeal could not proceed.

By order dated July 3, 2019, we determined the automatic stay did not suspend the appeal as the underlying suit was filed by appellant. We ordered appellant to file her brief no later than August 2, 2019 and cautioned her that failure to comply could result in dismissal of the appeal without further notice. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b),(c). On July 11, 2019, appellant objected to our order and informed the Court she would not be filing a brief.

On August 12, 21, and 23, 2019, appellant filed responses to appellees' motion to dismiss, complaining again of our determination that the automatic stay did not suspend the appeal and asserting new reasons for why she did not file a brief.¹ We are unpersuaded, however, by appellant's arguments. Accordingly, based on the filings to date, we grant appellees' motion and dismiss the appeal. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b),(c).

/Robert D. Burns, III/

ROBERT D. BURNS, III
CHIEF JUSTICE

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¹ In the August 21 and 23 responses, she also seeks the recusal of Justice Robbie Partida-Kipness. The recusal has been addressed by separate order.



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

JUDGMENT

DARLENE C. AMRHEIN, Appellant

No. 05-18-01493-CV V.

PROSPERITY BANK, JO'EL DOE,
KEENA CLIFTON, AND NAOMI
THAMES, Appellees

On Appeal from the 199th Judicial District
Court, Collin County, Texas

Trial Court Cause No. 199-05352-2016.

Opinion delivered by Chief Justice Burns,
Justices Molberg and Nowell participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

Judgment entered August 30, 2019.

