

**Motion Granted, Appeal Dismissed and Memorandum Opinion filed August 5, 2010.**



**In The**

**Fourteenth Court of Appeals**

---

**NO. 14-10-00192-CV**

---

**JOHN DUCK AND PHILLIP WILLITS, Appellant**

**V.**

**SHILOH ENTERPRISES, INC., Appellee**

---

**On Appeal from the 113th District Court  
Harris County, Texas  
Trial Court Cause No. 2008-11876**

---

**MEMORANDUM OPINION**

This appeal is from an order signed February 10, 2010, denying the special appearance of John Duck and Phillip Willits. On July 7, 2010, appellee filed a motion to dismiss the appeal as moot on the grounds a notice of non-suit as to John Duck and Phillip Willits has been filed.

Appellants filed a response claiming that even though they have been non-suited, the appeal is not moot because CIT Healthcare, L.L.C. has designated them as responsible third parties thus they will be bound by the trial court's judgment.

The designation of a person as a responsible third party does not impose liability and may not be used in another proceeding to impose liability. Tex. Civ. Prac. & Rem. Code Ann. 33.004(i) (Vernon 2008). Appellants are no longer parties to the underlying suit. Thus the issue of whether the trial court erred in denying their special appearance is moot.

Appellee's motion to dismiss is granted and the appeal is ordered dismissed. *See* Tex. R. App. P. 42.1.

PER CURIAM

Panel consists of Justices Brown, Sullivan, and Christopher.