



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-16-00434-CV**

CATHY RENA MILLER

APPELLANT

V.

AT&T STADIUM AND DALLAS  
COWBOYS FOOTBALL CLUB, LTD.

APPELLEES

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FROM COUNTY COURT AT LAW NO. 3 OF TARRANT COUNTY  
TRIAL COURT NO. 2015-006779-3

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**MEMORANDUM OPINION<sup>1</sup>**  
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Pro se Appellant Cathy Rena Miller complains of the trial court's summary judgment for Appellees AT&T Stadium and the Dallas Cowboys Football Club, Ltd. and the dismissal of her lawsuit. Because Appellant had an opportunity but

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<sup>1</sup>See Tex. R. App. P. 47.4.

failed to file an appellant's brief that substantially complies with the rules of procedure, we grant Appellees' motion to dismiss this appeal.

**I. Appellant's Initial Brief Did Not Comply with Appellate Rules of Procedure or Local Rules.**

Appellant filed her initial brief on January 23, 2017. The brief failed to include:

- a list of all the parties and counsel;
- an index of authorities;
- a statement of the case with record references;
- the issues presented;
- a statement of facts with record references;
- a summary of the argument;
- an argument supported by appropriate citations to legal authorities and the record;
- a prayer;
- a front cover;
- a certificate of compliance; and
- a certificate of service.

See Tex. R. App. P. 9.4(i), 9.5(d)–(e), 38.1(a), (c), (d), (f)–(j); 2nd Tex. App. (Fort Worth) Loc. R. 1.A. Because the brief did not comply with the rules of appellate procedure or our local rules, the court notified Appellant by letter on January 25, 2017 that an amended, compliant appellant's brief would be due February 6, 2017. See Tex. R. App. P. 9.4(k); 38.9(a). In that same letter, the court warned Appellant that her failure to file an amended, compliant brief by the due date

could result in our striking her noncompliant brief, waiving noncomplying points, or dismissing her appeal. See Tex. R. App. P. 38.9(a), 42.3. On February 6, 2017, Appellant requested an extension of time to file her amended brief, and the court granted that request, extending the deadline to February 16, 2017.

## **II. Appellant's Amended Brief Does Not Substantially Comply with Briefing Rules.**

Appellant filed her amended brief on February 16, 2017, but it too is noncompliant in many respects.<sup>2</sup> On February 24, 2017, Appellees filed a motion to dismiss this appeal based on Appellant's failure to comply with (1) the rules of appellate procedure and (2) this court's order to file a compliant, amended brief by February 16, 2017. As Appellees point out, Appellant's amended brief remains substantially deficient because it lacks a statement of the issues and an argument.<sup>3</sup> See Tex. R. App. P. 38.9 (“[B]riefs are meant to acquaint the court with the issues in a case and to present argument that will enable the court to decide the case.”). Appellant has not filed a response to Appellees' motion to dismiss the appeal.

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<sup>2</sup>On February 17, 2017, the court received a second amended brief from Appellant. It was not accompanied by a motion for leave. The court reminded Appellant of that requirement by telephone on February 21, 2017, see 2nd Tex. App. (Fort Worth) Loc. R. 1.C, but she still has not filed a motion for leave to file this brief.

<sup>3</sup>Appellant's second amended brief received by the court is likewise deficient.

### **III. Lawyers and Pro Se Litigants Must Follow the Same Appellate Rules of Procedure.**

The court is mindful that pro se briefs should be liberally construed. However, to ensure fairness in our treatment of all litigants, we hold pro se litigants to the same standards as licensed attorneys and require pro se litigants to follow the applicable laws and rules of procedure. *See Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184–85 (Tex. 1978); *Shull v. United Parcel Serv.*, 4 S.W.3d 46, 53 (Tex. App.—San Antonio 1999, pet. denied), *cert. denied*, 531 U.S. 835 (2000); *accord Boswell v. Hon. Gov. of Tex.*, 138 F. Supp. 2d 782, 785–86 (N.D. Tex. 2000) (Mahon, J.) (order granting dismissal without prejudice).

### **IV. Conclusion**

The substantive defects in Appellant’s amended brief prevent Appellees and the court from understanding what her issues are and preclude an opinion on the merits. Because Appellant’s amended brief is substantially noncompliant and she did not respond to Appellees’ motion to dismiss, we grant the motion and dismiss the appeal. *See* Tex. R. App. P. 38.8(a), 42.3(b)–(c), 43.2(f).

PER CURIAM

PANEL: PITTMAN, J.; LIVINGSTON, C.J.; and WALKER, J.

DELIVERED: April 13, 2017