

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-11-00592-CV**

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**Mark Polansky and Landrah Polansky, Appellants**

**v.**

**Pezhman Berenji and John Berenji, Appellees**

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**FROM THE COUNTY COURT AT LAW NO. 4 OF WILLIAMSON COUNTY  
NO. 10-1472-CC4, HONORABLE JOHN MCMASTER, JUDGE PRESIDING**

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**CONCURRING OPINION**

I agree with the majority that the trial court erred in purporting to grant summary judgment for appellees as to the Polanskys' claims because the merits of those claims had previously been rendered moot by their nonsuit. Also, because no evidence supported the attorney's fee award against the Polanskys, I agree that appellees must take nothing on that claim.

For these reasons, I concur in the judgment.

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Bob Pemberton, Justice

Before Justices Puryear, Pemberton and Henson

Filed: December 7, 2012