

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00336-CV

Mark Phelps and Julia Phelps, Appellants

v.

Russell Parker; KPK Ventures, Ltd., and KPKM, Inc., Appellees

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 368TH JUDICIAL DISTRICT
NO. 10-1028-C368, HONORABLE BURT CARNES, JUDGE PRESIDING**

MEMORANDUM OPINION

Mark Phelps and Julia Phelps have failed to prosecute this appeal. Appellants' brief was due on July 5, 2012. On July 31, 2012 this Court's clerk sent appellants a notice informing them that their brief was overdue and cautioned that the appeal could be dismissed for want of prosecution unless they filed a response reasonably explaining their failure to file a brief. Appellants responded indicating a misunderstanding regarding the due date for the brief, but did not file a brief. On September 10, 2012, this Court's clerk sent appellants a second notice informing them that their brief, which was due on July 5, was overdue and again cautioned that the appeal could be dismissed for want of prosecution unless they filed a response reasonably explaining the failure to file a brief. That response was due by September 20, 2012. Appellants have not responded to the notice, nor have they filed a brief. Accordingly, we dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 42.3(b), (c).

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Rose and Goodwin

Dismissed for Want of Prosecution

Filed: November 9, 2012