

Opinion issued March 24, 2011.



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-10-00607-CV

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**SENTINEL INTEGRITY SOLUTIONS, INC., Appellant**  
**V.**  
**MISTRAS GROUP, JODY OLSON & CARY ROBERTS, Appellee**

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**On Appeal from the 295th District Court**  
**Harris County, Texas**  
**Trial Court Case No. 1011229**

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**MEMORANDUM OPINION**

Sentinel Integrity Solutions, Inc. filed a motion to dismiss its appeal on January 18, 2011. Mistras Group, Inc., Jody Olson, and Carey Roberts (collectively, Mistras) filed a response to the motion to dismiss. In the response,

Mistras states that it does not oppose the dismissal of the appeal, but requests that we affirm the trial court’s judgment—denying Sentinel’s application for a temporary injunction—pursuant to Texas Rule of Appellate Procedure 42.1(a)(1), and tax costs of the appeal against Sentinel pursuant to Texas Rule of Appellate Procedure 42.1(d). *See* TEX. R. APP. P. 42.1(a)(1), 42.1(d).

We grant Sentinel’s motion to dismiss. TEX. R. APP. P. 42.1(a)(1). Sentinel’s motion does not indicate an agreement of the parties with regard to the allocation of costs of the appeal. We therefore tax costs of the appeal against Sentinel. TEX. R. APP. P. 42.1(d). We decline to affirm the trial court’s judgment because Sentinel’s motion only asks that we dismiss its appeal. *See* TEX. R. APP. P. 42.1(a)(1) (“In accordance with a motion of appellant, the court may dismiss the appeal or affirm the appealed judgment or order . . .”).

In its response to Sentinel’s motion to dismiss, Mistras also moves for sanctions against Sentinel. If we determine that an appeal is frivolous, we may award each prevailing party just damages. TEX. R. APP. P. 45; *Mailhot v. Mailhot*, 124 S.W.3d 775, 778 (Tex. App.—Houston [1st Dist.] 2003, no pet.). In making this determination, we review the record from the viewpoint of the advocate, and then only impose sanctions if no reasonable grounds exist to believe that the judgment could be reversed. *Mailhot*, 124 S.W.3d at 778.; *Bradt v. West*, 892 S.W.2d 56, 78 (Tex. App.—Houston [1st Dist.] 1994, writ denied); *Smith v.*

*Brown*, 51 S.W.3d 376, 381 (Tex. App.—Houston [1st Dist.] 2001, pet. denied). To warrant damages, the circumstances should be truly “egregious.” *City of Houston v. Precast Structures, Inc.*, 60 S.W.3d 331, 340 (Tex. App.—Houston [14th Dist.] 2001, pet. denied). After reviewing the record and the arguments presented by the parties to the trial court and in their appellate briefs, we hold that Sentinel’s appeal is not frivolous. Therefore, we deny Mistras’s motion for sanctions.

### **CONCLUSION**

We dismiss the appeal. We deny the motion for sanctions.

### **PER CURIAM**

Panel consists of Chief Justice Radack and Justices Alcala and Bland.