

Opinion issued August 12, 2014



In The
Court of Appeals
For The
First District of Texas

NO. 01-14-00416-CV

ROLANDO ACEVEDO, CHARLES RAY ALLEY, RODOLFO ALONSO, JOSE ALVARADO, MARIO ARAIZA, SEBASTIAN AVILA, EMILIO BELTRAN, CLARENCE BOLTON, RALPH BURNETT, MODESTO CAMPOS, JAMES CEDARS, JIMMY COLE, ERICH CORBIN, JESUS CRUZ, C.M. DEAR, MARIO FERNANDEZ, JAMES FICKLEN, WILLIAM FICKLEN, RAFAEL FIGUEROA, MICHAEL GADDIS, RAMIRO GARCIA, JOHN W. GARRETT, ARTURO GARZA, MOSSYE HANDY, JOHN HEITMAN, JOEL M. HERRERA, RICKIE KIDWELL, HILARIO MONREAL, ELMER NELSON, DOMINGO NUNEZ, JUAN T. PENA, DAVID PEREZ, ORLANDO PEREZ, THOMAS PYLE, ALEJANDRO RAMIREZ, JUAN RANGEL, EZEQUIEL ROBLES, JOSE RODRIGUEZ, DAVID RODRIGUEZ, ROBERTO RODRIGUEZ, FRANCISCO ROLDAN, ISAAC SAENZ, CARLOS SALAZAR, JUAN SANCHEZ, DONALD SESSUM, JAMES SIFFERD, JOHN SIMPSON, FIDENCIO R. SORIA, JUAN SUAREZ, CLARENCE URBAN, Appellants

v.

**THE O'QUINN LAW FIRM, JOHN M. O'QUINN & ASSOCIATES, LLP,
THE ESTATE OF JOHN M. O'QUINN, DECEASED, AND ABEL MANJI,
Appellees**

**On Appeal from the Probate Court Number 2
Harris County, Texas
Trial Court Cause No. 392,247-416**

MEMORANDUM OPINION

The intervenors-appellants, Rolando Acevedo, et al., in the above-referenced appellate case number, filed a “Motion to Consolidate Or, Alternatively, Motion to Dismiss,” seeking consolidation of the above-referenced appeal with the pending appellate cause number 01-14-00138-CV or else dismissal of the above-referenced appeal. The intervenors contend that this appeal is a duplicate of the prior appellate cause number 01-14-00138-CV because they both appeal from the same trial court’s summary judgment order, signed November 5, 2013. The intervenors filed their new notice of appeal on May 16, 2014, in the trial court out of an abundance of caution because that court, on May 9, 2014, had issued a subsequent “Agreed Amended Order Complying With The First Court of Appeals’ Order of Abatement” after the intervenors’ first notice of appeal was filed on January 13, 2014 and their second notice was filed on February 12, 2014.

Because the above-referenced appellate cause number 01-14-00416-CV was opened in error as it has the same trial court case number 392,247-416 as 01-14-00138-CV, and involves the exact same parties and issues as 01-14-00138-CV, we grant Intervenors' alternative motion to dismiss appellate cause number 01-14-00416-CV. *Cf. Berger v. Flores*, Nos. 03-10-00874-CV, 03-12-00415-CV, 2012 WL 4477405, at *1 (Tex. App.—Austin Sept. 28, 2012, no pet.) (mem. op.) (granting motion to consolidate appeal from a summary judgment order with appeal from subsequent order in the same case and dismissing one of the appellate cause numbers). Therefore, the intervenors' appeal shall continue to proceed under the pending cause number 01-14-00138-CV.

Accordingly, we grant the intervenors' motion and appellate cause number 01-14-00416-CV is dismissed. We dismiss all other pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Jennings and Keyes.