

Opinion issued October 4, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00472-CV

G FABRICATING, LLC, RANDALL GARCIA, AND MARY GARCIA,
Appellants
V.
FROST BANK, Appellee

**On Appeal from the 61st District Court
Harris County, Texas
Trial Court Cause No. 2016-08762**

MEMORANDUM OPINION

Appellants, G Fabricating, LLC, Randall Garcia, and Mary Garcia, have filed an agreed motion to dismiss their appeal. *See* TEX. R. APP. P. 42.1(a)(1). Although appellants' motion does not contain a certificate of conference, the motion contains a certificate of service on appellee's counsel, the motion has been on file with this

Court for more than ten days, and no response has been filed. *See id.* 9.5(d), (e), 10.1(a)(5), 10.3(a)(2). No other party has filed a notice of appeal and no opinion has issued. *See id.* 42.1(a)(1), (c). While appellants' motion claims that the appellee is to bear the appellate costs, because the motion does not contain a certificate of conference confirming this arrangement from appellee's counsel, the Court will tax costs against appellants. *See id.* 42.1(d).

Accordingly, we grant the motion and dismiss the appeal. *See* TEX. R. APP. P. 42.1(a)(1), 43.2(f). We dismiss any other pending motions as moot.

PER CURIAM

Panel consists of Justices Jennings, Keyes, and Brown.