

*Court Of Appeals  
Fourth Court of Appeals District of Texas  
San Antonio*



**MEMORANDUM OPINION**

No. 04-09-00213-CV

Abel H. **GARCIA** and Amy Garcia,  
Appellants

v.

**METANO ENERGY, L.P.** and Stallion Oilfield Services, LTD,  
Appellees

From the 229th District Court, Duval County, Texas  
Trial Court No. DC-06-331  
Honorable Alex W. Gabert, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Justice  
Phylis J. Speedlin, Justice  
Rebecca Simmons, Justice

Delivered and Filed: June 24, 2009

DISMISSED

A filing fee of \$175.00 was due from appellants when this appeal was filed but was not paid. *See* TEX. GOV'T CODE ANN. §§ 51.207(b)(1), 51.941(a)(1) (Vernon 2005); TEXAS SUPREME COURT ORDER REGARDING FEES CHARGED IN CIVIL CASES IN THE SUPREME COURT AND THE COURTS OF APPEALS (July 21, 1998) § B.1.(a). The clerk of the court notified appellants of this deficiency in a letter dated April 14, 2009. The fee remains unpaid. Rule 5 of the Texas Rules of Appellate Procedure provides:

A party who is not excused by statute or these rules from paying costs must pay – at the time an item is presented for filing – whatever fees are required by statute or Supreme Court order. The appellate court may enforce this rule by any order that is just.

TEX. R. APP. P. 5.

Accordingly, on May 13, 2009, this court ordered appellants to either (1) pay the applicable filing fee or (2) provide written proof to this court that they are excused by statute or the Rules of Appellate Procedure from paying the fee. *See* TEX. R. APP. P. 20.1 (providing that indigent party who complies with provisions of that rule may proceed without advance payment of costs). Our order informed appellants that if they failed to respond satisfactorily within the time ordered, this appeal would be dismissed. *See* TEX. R. APP. P. 42.3. Appellants have not responded. Accordingly, this appeal is dismissed, and costs of appeal are taxed against appellants.

PER CURIAM