



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-12-00383-CV

HLI RAIL AND RIGGING, LLC,
Appellant

v.

KANSAS CITY SOUTHERN RAIL WAY COMPANY, Texas Mexican Railroad Company,
Lone Star Railroad Contractors, Inc., Mexrail, Inc., Felipe Nevarez, Fireman's Fund Insurance
Company, AIG Mexico Securos Interamericana, S.A. de C.V. Chartis Mexico, Zass Recuperos
S.A. de C.V., and City Underwriting Agency, Inc.
Appellees

From the 229th Judicial District Court, Duval County, Texas
Trial Court No. DC-10-338
Honorable Ana Lisa Garza, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Marialyn Barnard, Justice

Delivered and Filed: November 21, 2012

APPELLANT'S MOTION TO DISMISS GRANTED; APPEAL DISMISSED

Appellant's brief was due October 15, 2012. When appellant failed to file the brief, appellee Lone Star Railroad Contractors, Inc. filed a motion to dismiss the appeal for want of prosecution. *See* TEX. R. APP. P. 42.3(b). We held appellee's motion for ten days to permit appellant to file a response. *See* TEX. R. APP. P. 10.3(a). We held it an additional ten days pursuant to the mailbox rule. *See* TEX. R. APP. P. 9.2(b). On the tenth day, appellant filed its own motion to dismiss the appeal, stating it no longer desired to pursue the appeal. Accordingly,

we grant appellant's motion to dismiss the appeal, and deny appellee's motion to dismiss the appeal as moot. *See* TEX. R. APP. P. 42.1(a)(1). We order all costs assessed against appellant. *See* TEX. R. APP. P. 42.1(d)(absent agreement of the parties, costs are taxed against appellant).

PER CURIAM