

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

★   ★   ★   ★   ★   ★   ★



**MEMORANDUM OPINION**

No. 04-12-00388-CV

**DAY'S GAP L.L.C.**, Roy Sylvan Dunn, The Estate of Marble Day, Deceased, and Little-Day,  
L.L.C.,  
Appellants

v.

**UETA OF TEXAS INC.**,  
Appellee

From the 406th Judicial District Court, Webb County, Texas  
Trial Court No. 2008-CVF-001775-D4  
Honorable Oscar J. Hale Jr., Judge Presiding

PER CURIAM

Sitting:       Rebecca Simmons, Justice  
                  Steven C. Hilbig, Justice  
                  Marialyn Barnard, Justice

Delivered and Filed: August 31, 2012

DISMISSED

Appellants and cross-appellant were required to pay a \$175.00 filing fee when they filed their notice of appeal. *See* TEX. R. APP. P. 5.<sup>1</sup> Appellants and cross-appellant did not pay the required filing fees. Accordingly, the clerk of this court notified appellants by letter dated June 26, 2012, that the notice of appeal was conditionally filed and the filing fee was due no later than

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<sup>1</sup> *See also* TEX. GOV'T CODE ANN. §§ 51.207(b)(1), 51.941(a) (West 2005); *id.* §§ 51.208, 51.0051 (West Supp. 2010); Texas Supreme Court Order Regarding Fees Charged in Civil Cases in the Supreme Court and the Courts of Appeals and Before the Judicial Panel on Multidistrict Litigation, Misc. Docket No. 07-9138 (Tex. Aug. 28, 2007), *reprinted in* TEX. R. APP. P. app. A § B.1.(a).

July 6, 2012. The clerk of this court also notified cross-appellant by letter dated July 9, 2012, that the notice of appeal was conditionally filed and the filing fee was due no later than July 19, 2012.

On July 25, 2012, when the fees remained unpaid, this court ordered appellants and cross-appellant to provide written proof to this court not later than August 9, 2012, that either (1) the \$175.00 and \$10.00 filing fees have been paid, or (2) the party is entitled to appeal without paying the filing fees. *See id.* We warned appellants that if they failed to respond as ordered, the appeal would be dismissed; we similarly warned cross-appellant. *See id.* 42.3.

On August 10, 2012, cross-appellant/appellee filed a notice of settlement that requested that this court abate the appeal for the parties to finalize their settlement agreement. The notice did not provide written proof that the applicable fees had been paid or that the cross-appellant is excused from paying the fees. Appellants have not filed any response to our July 25, 2012 order.

The motion to abate the appeal is denied, and we dismiss this appeal. *See id.*

PER CURIAM