



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 2-08-216-CV**

ROBIN W. EISENHAUER

APPELLANT

V.

N. TXDOT TARRANT COUNTY AND  
ORVAL HALL EXCAVATING LTD.

APPELLEES

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FROM THE 96TH DISTRICT COURT OF TARRANT COUNTY  
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**MEMORANDUM OPINION<sup>1</sup> AND JUDGMENT**  
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On November 13, 2008, this court issued an order affirming the trial court's order sustaining the contest to Appellant Robin W. Eisenhauer's affidavit of indigence. In that order, we provided that Appellant's failure to pay the required filing fee for an appeal of \$175.00 on or before Monday November 24,

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<sup>1</sup> [See](#) Tex. R. App. P. 47.4.

2008, would result in the dismissal of this case for want of prosecution.<sup>2</sup> We have not received the filing fee.

On November 24, 2008, we received Appellant's motion for rehearing of our November 13, 2008 order. Even though Appellant did not pay the required \$10.00 filing fee for the motion, we have reviewed his motion for rehearing in the interest of justice, and it is DENIED.

Accordingly, because Appellant by failing to pay the required filing fee of \$175.00 has failed to comply with a requirement of the rules of appellate procedure and the Texas Supreme Court's order of August 28, 2007,<sup>3</sup> we dismiss this appeal.<sup>4</sup>

Appellant shall pay all costs of this appeal, for which let execution issue.<sup>5</sup>

PER CURIAM

PANEL: DAUPHINOT and GARDNER, JJ.; and DIXON W. HOLMAN, J. (Senior Justice, Retired, Sitting by Assignment).

DELIVERED: January 8, 2009

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<sup>2</sup> [▲](#) See Tex. R. App. P. 5, 12.1(b), 42.3(c).

<sup>3</sup> [▲](#) See Supreme Court of Tex., *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 (Aug. 28, 2007) (listing fees in courts of appeals).

<sup>4</sup> [▲](#) See Tex. R. App. P. 42.3(c), 43.2(f).

<sup>5</sup> [▲](#) See Tex. R. App. P. 43.4.