



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

NO. 02-12-00446-CV

SOUTHLAKE ENERGY, INC.;
DAVID M. PENDARVIS; AND MARK
J. TIENERT

APPELLANTS

V.

HARRY J. BUTLER, JR.; BUTLER
INVESTMENT MANAGEMENT,
LLC; AND BRETT BUTLER

APPELLEES

FROM THE 271ST DISTRICT COURT OF JACK COUNTY

MEMORANDUM OPINION¹ AND JUDGMENT

Before the court is Appellees' motion to dismiss this accelerated venue appeal as moot.² Appellants filed their brief with this court in January 2013.

¹See Tex. R. App. P. 47.4.

²See Tex. Civ. Prac. & Rem. Code Ann. § 15.003(b), (c) (West Supp. 2012) (permitting interlocutory appeal of venue decision involving multiple plaintiffs but requiring that court of appeals issue judgment within 120 days following filing of notice of appeal).

Later that month, upon Appellees' agreed motion, we extended the deadline for Appellees to file their appellate brief because the parties had scheduled mediation in the case. By that same order, we also abated the appeal. The court has extended the abatement three additional times because the parties had advised the court that they had settled the case at mediation but needed additional time to complete the necessary settlement documents and related transfer documents. However, the court ordered on July 3, 2013, that Appellees file their brief or a motion to dismiss no later than August 14, 2013, and we stated that no further extensions would be granted. On August 14, 2013, Appellees filed the instant motion to dismiss, which they have supported by an affidavit and in which they ask that the court dismiss the appeal in light of the parties' settlement. In short, Appellees contend that they have fully satisfied all of their obligations under the confidential settlement agreement and that the appeal is therefore moot. Appellees' certificate of conference states that "Appellants were not able to agree to the relief requested" in the motion to dismiss at the time it was filed.

Although the motion to dismiss has been on file for well more than the minimum ten-day requirement under rule of appellate procedure 10.3(a), Appellants have not filed a response with the court in opposition to dismissal. See Tex. R. App. P. 10.3(a). Therefore, we grant the uncontroverted motion to

dismiss and dismiss the appeal as moot. See Tex. R. App. P. 42.3(c). Costs of this appeal shall be paid by the party incurring same. See Tex. R. App. P. 43.4.

PER CURIAM

PANEL: GARDNER, MCCOY, and MEIER, JJ.

DELIVERED: October 3, 2013