

NO. 07-09-0088-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
OCTOBER 1, 2009

EXAMONE WORLDWIDE, INC., THE NORTHWESTERN MUTUAL
LIFE INSURANCE COMPANY, KELLY SCHAEFER, PAMELA LAMBERT
AND QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC., APPELLANTS

V.

VON ALAN VENHUIZEN AND SUSAN VENHUIZEN, APPELLEES

FROM THE 99TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2008-543,155; HONORABLE WILLIAM SOWDER, JUDGE

Before CAMPBELL and HANCOCK and PIRTLE, JJ.

ON AGREED MOTION TO DISMISS APPEAL

Appellants, Examone Worldwide, Inc., Kelly Schaefer, Paula Lambert, and Quest Diagnostics Clinical Laboratories, Inc., perfected an interlocutory appeal from the trial court's denial of appellants' motion to dismiss and motion for costs. See TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(9) (Vernon 2008). Appellants and appellees, Von Alan Venhuizen and Susan Vanhuizen, have filed an agreed motion to dismiss this appeal on the basis that the parties have reached a settlement agreement. This agreed motion

requests this Court to dismiss the appeal. Dismissal of the appeal is authorized on motion of appellant by Rule 42.1(a)(1) of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 42.1(a)(1). Thus, to effectuate the agreement of the parties as articulated in their agreed motion to dismiss, this Court will construe that portion of the motion that requests dismissal to be appellants' request for such relief and we will grant the relief requested. Finding the motion, as construed, to comply with Rule 42.1(a)(1) of the Texas Rules of Appellate Procedure, we dismiss the appeal.

Further, the parties have requested that costs of the appeal be taxed to the party incurring the same. As the agreed motion complies with the requisites of Rule 6.6 of the Texas Rules of Appellate Procedure, we will tax costs of this appeal against the party that incurred those costs. See TEX. R. APP. P. 42.1(d), 6.6.

Having disposed of this appeal at the parties' request, we will not entertain a motion for rehearing and our mandate shall issue forthwith.

Per Curium