

NO. 07-09-00343-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
SEPTEMBER 6, 2011

SOUTH PLAINS LAMESA RAILROAD, LTD.,
AND LARRY DALE WISENER, APPELLANTS

v.

THE KITTEN FAMILY LIVING TRUST, APPELLEES

FROM THE 99TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2005-529,345; HONORABLE WILLIAM C. SOWDER, JUDGE

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

CONCURRING OPINION

My colleagues find appellants' Issue Two, in which they challenge the manner in which the trial court submitted this dispute to the jury, dispositive of the appeal. I cannot join in either Justice Pirtle's or Chief Justice Quinn's opinions concerning Issue Two. I join, however, in Justice Pirtle's discussion of appellant's Issue Three, regarding the admission of evidence of appellant Wisener's arrest. For that reason, I join also in the Court's judgment reversing and remanding the case.

James T. Campbell
Justice