



**IN THE
TENTH COURT OF APPEALS**

No. 10-07-00281-CV

**FLYING DIAMOND-WEST MADISONVILLE
LIMITED PARTNERSHIP, SOL LEVINE, AND
MARDAN ENERGY CORPORATION,**

Appellants

v.

**GW PETROLEUM, INC., GREAT WESTERN
ONSHORE, INC., FORCENERGY ONSHORE, INC.,
CASCADE ENERGY CORPORATION, FAULCONER
1996 LLC, GULFWEST OIL COMPANY, AND
GULFWEST OIL & GAS COMPANY,**

Appellees

**From the 278th District Court
Madison County, Texas
Trial Court No. 6354**

MEMORANDUM OPINION

Appellants, Flying Diamond-West Madisonville Limited Partnership, Sol Levine, and Mardan Energy Corporation filed a notice of appeal on September 13, 2007. This Court issued its opinion and judgment affirming in part and reversing in part on

August 26, 2009. A motion for rehearing was filed on September 11, 2009. This Court referred this cause to mediation on October 7, 2009.

Appellants and Appellees now jointly seek a dismissal of this appeal because the parties have settled their dispute in mediation and they no longer wish to pursue the appeal. The parties have agreed that the costs of appeal should be borne by the party incurring them.

Therefore, we withdraw the prior judgment entered in this cause dated August 26, 2009. The opinion of the Court issued on August 26, 2009 is not withdrawn. TEX. R. APP. P. 42.1(c).

Accordingly, this appeal is dismissed and the court costs are assessed against the party incurring them. TEX. R. APP. P. 42.1. The motion for rehearing is denied as moot.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis

Dismissed
Opinion delivered and filed April 14, 2010
[CV06]