

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-06-00221-CV

**Edward Shawn Mack; Cook Portable Warehouses of Texas, L.L.P. a/k/a Cook Sales, Inc.;
and Cook Texas Management, L.L.C., Appellants**

v.

**Cynthia Rodriguez, Individually and on behalf of the Estate of David Villarreal, Deceased,
and Jarene Villarreal, Appellees**

**FROM THE DISTRICT COURT OF BASTROP COUNTY, 335TH JUDICIAL DISTRICT
NO. 24,885, HONORABLE TERRY L. FLENNIKEN, JUDGE PRESIDING**

MEMORANDUM OPINION

This appeal was initially filed by appellant Edward Shawn Mack against appellees Cynthia Rodriguez, individually and on behalf of the Estate of David Villarreal, deceased, and Jarene Villarreal on April 17, 2006. Appellants Cook Portable Warehouses of Texas, L.L.P. a/k/a Cook Sales, Inc.; and Cook Texas Management, L.L.C., joined the appeal on May 8.

After this court granted two extensions of time for preparation of the reporter's record, the court reporter notified this Court on July 20 that, because the parties informed her that the case would be settled and the appeal dismissed, she would not prepare the reporter's record. On July 26, appellants confirmed that a settlement was being negotiated and requested that the case be maintained on the docket without the filing of a reporter's record until the settlement could be completed. The following day, appellants requested two weeks (until August 10) to complete the

settlement and file an appropriate motion to dismiss or abate with this Court. A month has passed without further notice from the parties concerning the status of this appeal.

Therefore, we abate the appeal pending the resolution of the settlement negotiations and instruct appellants that, on or before October 11, they shall either (1) file an appropriate motion to dismiss, (2) pay for the preparation of the clerk's record and move to reinstate the appeal, or (3) file a status report explaining to this Court why they were unable to comply with the first two options and requesting a specific course of action for either retaining or dismissing the appeal.

W. Kenneth Law, Chief Justice

Before Chief Justice Law, Justices B. A. Smith and Waldrop

Filed: September 11, 2006