

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00713-CV

James C. Guzman and Gloria A. Guzman, Appellants

v.

The Bank of New York Mellon f/k/a/ The Bank of New York as Successor in Interest to JP Morgan Chase Bank, NA, not Individually but Solely as Trustee for the Holders of Bear Sterns Asset Backed Securities Trust 2006-2, Asset-Backed Certificates, 2006-2, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 250TH JUDICIAL DISTRICT
NO. D-1-GN-14-002456, HONORABLE ORLINDA NARANJO, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellants James C. Guzman and Gloria A. Guzman have filed a notice of appeal from the trial court's judgment signed on September 21, 2016. On January 11, 2017, the Guzmans filed an affidavit of their inability to pay appellate filing fees and any other costs associated with this appeal. We abate this appeal and remand the cause to the trial court for a determination, if necessary, of the appellants' ability to afford payment of court costs under Rule 145 of the Texas Rules of Civil Procedure. *See* Tex. R. Civ. P. 145 (payment of costs not required).

Any motion to require the Guzmans to pay costs or to require the Guzmans to prove their inability to afford costs must be filed in the trial court by the appropriate party in accordance with Rule 145. *See id.* R. 145(f)(1)-(4). If necessary, the trial court shall conduct a hearing on any such motion(s) and make appropriate orders. *See id.* R. 145(f)(5)-(7). Any and all documents filed

and orders signed pursuant to Rule 145 shall be forwarded to this Court for filing as a supplemental record no later than May 30, 2017. Alternatively, a party, the trial court clerk, or the court reporter may file a status report informing this Court that additional time is needed for a determination under Rule 145. In the absence of a request for additional time, this appeal will automatically reinstate on May 30, 2017. Upon reinstatement, if an order requiring the Guzmans to pay costs has not been signed, the Guzmans will be entitled to proceed without payment of costs associated with this appeal. *See id.* R. 145(a).

Before Justices Puryear, Pemberton, and Field

Abated and Remanded

Filed: April 14, 2017