

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-17-00507-CV**

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**Commercial Comfort, Inc. & Edward Glidewell, Appellants**

**v.**

**Energy Logix of Texas LLC, Appellee**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 353RD JUDICIAL DISTRICT  
NO. D-1-GN-17-001936, HONORABLE SCOTT H. JENKINS, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

The appellants filed notice of appeal in this Court on July 27, 2017. The clerk and reporter's records were due for filing in this Court on October 12, 2017. This Court notified appellants that no clerk's record was filed due to their failure to pay or make arrangements to pay the trial clerk's fee for preparing the clerk's record. This Court's notice requested that appellants make arrangements for the clerk's record and submit a status report regarding this appeal by October 16, 2017. Further, the notice advised appellants that their failure to comply with this request could result in the dismissal of their appeal for want of prosecution.<sup>1</sup> To date, appellants have not filed a status report or otherwise responded to this Court's notice, and the clerk's record has not been filed.

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<sup>1</sup> Tex. R. App. P. 42.3(b).

If a trial court clerk fails to file the clerk's record due to appellants' failure to pay or make arrangements to pay for the clerk's fee for preparing the record, the appellate court may dismiss the appeal for want of prosecution unless the appellants were entitled to proceed without payment of costs.<sup>2</sup> In this case, appellants have not established that they are entitled to proceed without payment of costs.<sup>3</sup> Because appellants have failed to pay or make arrangements to pay the clerk's fee for preparing the clerk's record, and because appellants have otherwise failed to respond to this Court's notice, this appeal is dismissed for want of prosecution.<sup>4</sup>

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Bob Pemberton, Justice

Before Chief Justice Rose, Justices Pemberton & Goodwin

Dismissed for Want of Prosecution

Filed: December 19, 2017

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<sup>2</sup> Tex. R. App. P. 37.3(b).

<sup>3</sup> See Tex. R. Civ. P. 145.

<sup>4</sup> See Tex. R. App. P. 42.3(b), (c).