

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

DJ Stephanco Auto Services, LLC, David J. Stephan, John Matt Rembert, and Foundation Builders, LLC v. Alnoor Malick and Shelina Malick; Alnoor Malick and Shelina Malick v. Foundation Builders, LLC

No. 01-12-01086-CV, Court of Appeals for the First District of Texas (May 7, 2015)

OPINION

PER CURIAM.

Opinion issued May 7, 2015 In The Court of Appeals For The First District of Texas NO. 01-12-01086-CV DJ STEPHANCO AUTO SERVICES, LLC, DAVID J. STEPHAN, JOHN MATT REMBERT, AND FOUNDATION BUILDERS, LLC, Appellants V. ALNOOR MALICK AND SHELINA MALICK, Appellees and ALNOOR MALICK AND SHELINA MALICK, Appellants V. FOUNDATION BUILDERS, LLC, Appellee On Appeal from the 189th District Court Harris County, Texas Trial Court Case No. 2009-03407 MEMORANDUM ORDER DJ Stephanco Auto Services, LLC and David Stephan, filed a notice of appeal of the trial court's final judgment signed on September 10, 2012.

Thereafter, John Matt Rembert and Foundation Builders, LLC, filed their notices of appeal of the September 10, 2012 judgment, and Alnoor and Shelina Malick filed a notice of appeal of the judgment as it related to Foundation Builders, LLC. On May 29, 2013, DJ Stephanco Auto Services filed in this Court a suggestion of bankruptcy, staying proceedings in this Court.

See TEX. R. APP. P. 8.2; see also 11 U.S.C. § 362(a). DJ Stephanco Auto Services and Stephan have filed an unopposed motion to dismiss, with prejudice, their appeal. They represent that Stephan, the Malicks, and others, who are not parties to this appeal, have entered into a global settlement of the litigation pending between them; the bankruptcy court has approved the settlement; and, as consideration for the settlement, Stephan has agreed to withdraw this appeal, individually and on behalf of DJ Stephanco Auto Services.

The Malicks and Foundation Builders, representing that they have resolved the disputes between them, also have filed a motion to dismiss, with prejudice, their appeals. Accordingly, we reinstate the appeal. We grant DJ Stephanco Auto Services and Stephan's and the Malicks and Foundation Builders' motions to dismiss their 2 appeals, and dismiss the appeals of DJ Stephanco Auto Services, LLC, David J. Stephan, Foundation Builders, LLC, and Alnoor and Shelina Malick.

Finally, we dismiss as moot DJ Stephanco Auto Services and Stephan's motion to dismiss, filed on August 26, 2014; their motion to withdraw that motion to dismiss, filed on September 10, 2014; and any other pending motions. John Matt Rembert's appeal remains pending.¹ This interlocutory order will become final when a judgment is issued in this cause number. PER CURIAM Panel consists of Chief Justice Radack and Justices Brown and Lloyd.

¹ The September 10, 2012 judgment awards the Malicks damages against Rembert, Stephan, and DJ Stephanco Auto Services, jointly and severally; and attorney's fees against Rembert. In their motion to dismiss, the Malicks and Foundation Builders state that the granting of the motions to dismiss "would resolve all matters in the above-styled and number[ed] case." However, the motions do not reflect that matters underlying Rembert's appeal have been resolved.