

COURT OF APPEALS OF TEXAS, TENTH DISTRICT

Big Creek Construction, LTD, and Cowbell Traffic Service, Inc. v.
Kay and Terry Kamp

No. 10-14-00046-CV · No. No. 10-14-00046-CV · Decided July 3, 2015

SUMMARY

In this premises-liability appeal arising from a car accident, Big Creek Construction, Ltd. challenged a judgment favoring Kay and Terry Kamp. The Tenth Court of Appeals granted Big Creek's motion to dismiss after settlement and ordered the parties to bear their own appellate costs.

CASE DETAILS

COURT	Court of Appeals of Texas, Tenth District
WRITING FOR THE COURT	Al Scoggins; Chief Justice Gray; Justice Davis; Justice Scoggins
JURISDICTION	Texas
DECIDED	July 3, 2015
DOCKET	No. 10-14-00046-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant moved to dismiss its appeal after the parties settled the dispute.
PRECEDENTIAL VALUE	Published memorandum opinion; the opinion resolves the appeal by voluntary dismissal and does not decide the underlying premises-liability merits.
PARTIES	Big Creek Construction, Ltd., Cowbell Traffic Service, Inc. v. Kay Kamp, Terry Kamp

TOPICS

- appellate procedure
- premises liability

PRACTICE AREAS

- appellate procedure
- premises liability

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed upon appellant's motion after the parties settled their dispute.

HOLDINGS

1. The court granted appellant's motion to dismiss the appeal under Texas Rule of Appellate Procedure 42.1(a)(1) and dismissed the appeal.

KEY QUOTATIONS

“the parties recently completed a settlement of their dispute, and Big Creek no longer wishes to prosecute this appeal.” (Page 2)

FACTUAL BACKGROUND

The underlying case was a premises-liability action stemming from a car accident. The trial court entered judgment in favor of Kay and Terry Kamp. During the appeal, the parties completed a settlement, and Big Creek Construction no longer wished to prosecute the appeal.

PROCEDURAL HISTORY

The appeal arose from a premises-liability case involving a car accident and challenged a judgment entered by the 87th District Court of Freestone County in favor of Kay and Terry Kamp. Big Creek Construction filed a motion to dismiss the appeal after settlement, and the Court of Appeals granted the motion.

DISPOSITION

dismissed

OPINION

PER CURIAM.

IN THE TENTH COURT OF APPEALS No. 10-14-00046-CV BIG CREEK CONSTRUCTION, LTD, AND COWBELL TRAFFIC SERVICE, INC., Appellants v. KAY AND TERRY KAMP, Appellees From the 87th District Court Freestone County, Texas Trial Court No. 11-035-B
MEMORANDUM OPINION In this premises-liability case stemming from a car accident, appellant, Big Creek Construction, Ltd., challenges the trial court’s judgment entered in favor of appellees, Kay and Terry Kamp.

However, on June 16, 2015, appellant filed a motion to dismiss this appeal, stating that “the parties recently completed a settlement of their dispute, and Big Creek no longer wishes to prosecute this appeal.” See TEX. R. APP. P. 42.1(a)(1). Dismissal of this appeal will not prevent the parties from seeking relief to which they would otherwise be entitled.

Accordingly, we grant appellant’s motion. This appeal is hereby dismissed, and we order that the parties bear their own appellate costs. AL SCOGGINS Justice Before Chief Justice Gray, Justice Davis, and Justice Scoggins Appeal dismissed Opinion delivered and filed July 2, 2015 [CV06] Big Creek Construction, LTD v. Kamp Page 2

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