

COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI-EDINBURG

**Carl Francis Badalich and Carl F. Badalich & Associates v. American
Fidelity & Liberty Insurance Company**

No. 13-09-00144-CV · No. 13-09-00144-CV · Decided February 11, 2010

SUMMARY

The Texas Thirteenth Court of Appeals granted the appellants' unopposed motion to dismiss their appeal because they no longer wished to pursue it. The court dismissed the appeal under Texas Rule of Appellate Procedure 42.1(a), taxed costs according to the parties' agreement, and ordered that no motion for rehearing would be entertained.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi-Edinburg
WRITING FOR THE COURT	Per Curiam; Chief Justice Valdez; Justice Yañez; Justice Vela
JURISDICTION	Texas
DECIDED	February 11, 2010
DOCKET	13-09-00144-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants appealed a judgment of the 148th District Court of Nueces County and then filed an unopposed motion to dismiss the appeal because they no longer wished to pursue it.
PRECEDENTIAL VALUE	published
PARTIES	Carl Francis Badalich, Carl F. Badalich & Associates v. American Fidelity & Liberty Insurance Company

TOPICS

appellate procedure

civil procedure

insurance

PRACTICE AREAS

Appellate procedure

Civil procedure

Insurance

QUESTIONS PRESENTED

- 1. Whether the court of appeals should grant appellants' unopposed motion to dismiss the appeal.

HOLDINGS

- 1. The court granted appellants' unopposed motion to dismiss and dismissed the appeal under Texas Rule of Appellate Procedure 42.1(a).
- 2. In accordance with the parties' agreement, appellate costs were taxed against the party incurring them.

KEY QUOTATIONS

“Appellants' motion to dismiss is granted, and the appeal is hereby *DISMISSED*.”

FACTUAL BACKGROUND

The opinion concerns only the procedural disposition of an appeal. Appellants no longer wished to pursue the appeal and filed an unopposed motion requesting dismissal.

PROCEDURAL HISTORY

The 148th District Court of Nueces County entered judgment in cause number 04-7211-E. Appellants perfected an appeal, then moved without opposition for dismissal. The court of appeals granted the motion and dismissed the appeal, taxing costs against the party incurring them pursuant to the parties' agreement.

DISPOSITION

dismissed

OPINION

PER CURIAM.

NUMBER 13-09-00144-CV COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI - EDINBURG
CARL FRANCIS
BADALICH AND CARL F. BADALICH & ASSOCIATES, Appellants, v. AMERICAN
FIDELITY & LIBERTY INSURANCE COMPANY, Appellee.
On Appeal from the
148th District Court of Nueces County, Texas.
MEMORANDUM
OPINION Before Chief Justice Valdez and Justices Yañez and Vela Memorandum Opinion Per
Curiam Appellants perfected an appeal from a judgment entered by the 148th District Court of
Nueces County, Texas, in cause number 04-7211-E.

Appellants have filed an unopposed motion to dismiss the appeal on grounds that the appellants no longer wish to pursue this appeal. Appellants request that this Court dismiss the appeal. The Court, having considered the documents on file and appellants' unopposed motion to dismiss the appeal, is of the opinion that the motion should be granted. See Tex. R. App.

P. 42.1(a). Appellants' motion to dismiss is granted, and the appeal is hereby DISMISSED. In accordance with the agreement of the parties, costs are taxed against the party incurring same. See Tex. R. App. P. 42.1(d) ("Absent agreement of the parties, the court will tax costs against the appellant.").

Having dismissed the appeal at appellants' request, no motion for rehearing will be entertained, and our mandate will issue forthwith. PER CURIAM Delivered and filed the 11th day of February, 2010.