
GENERALI—U.S. BRANCH *v.* Hector Angel MARTINEZ
and Leticia Martinez

03-1210

169 S.W.3d 45

Supreme Court of Arkansas
Opinion delivered May 13, 2004

APPEAL & ERROR — MOTION TO DISMISS APPEAL — MOOT. — The fact that appellees prevailed on direct appeal rendered their motion to dismiss moot.

Motion to Dismiss Appeal; moot.

J. Robin Nix, II, and Snellgrove, Langley, Lovett & Culpepper, by:
Lacey C. Nix, for appellant.

Mixon Parker & Hurst PLC, by: *Donn Mixon*, for appellees.

PER CURIAM. [1] Appellees Hector Angel Martinez and Leticia Martinez filed a motion to dismiss the appeal filed by Appellant Generali-U.S. Branch. In support of their motion, Appellees alleged that Appellant failed to tender the record and filing fee required by Ark. R. App.—Civ. 5(b), within seven months from the time the notice of appeal was filed. We ordered the parties to submit briefs addressing the issue of dismissal. Shortly thereafter, however, the court of appeals held oral arguments in the direct appeal of this matter and issued an unpublished opinion affirming the order of the trial court. *See Generali-U.S. Branch v. Martinez*, CA03-1213 (Ark. App. April 7, 2004). At no time during their arguments before the court of appeals did counsel acknowledge the fact that a motion to dismiss had been filed. Accordingly, the fact that Appellees prevailed on direct appeal renders their motion to dismiss moot.