



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-12-00098-CV

STEVEN AND SHYLA LIPSKY AND
ALISA RICH

APPELLANTS

V.

RANGE PRODUCTION COMPANY
AND RANGE RESOURCES
CORPORATION

APPELLEES

FROM THE 43RD DISTRICT COURT OF PARKER COUNTY

MEMORANDUM OPINION¹

Appellants Steven and Shyla Lipsky and Alisa Rich attempt to appeal from the trial court's "Order Denying Plaintiff's Sec. 27 Anti-Slapp Motion to Dismiss Range's Counter Claims." See Tex. Civ. Prac. & Rem. Code Ann. § 27.003(a) (West Supp. 2012) ("If a legal action is based on, relates to, or is in response to a

¹See Tex. R. App. P. 47.4.

party's exercise of the right of free speech, right to petition, or right of association, that party may file a motion to dismiss the legal action.”). Through a June 5, 2012 order, we notified appellants of our concern about whether section 27.008 of the civil practice and remedies code grants us jurisdiction of this appeal. See *id.* § 27.008 (West Supp. 2012). We gave all parties an opportunity to respond to our jurisdictional question. Appellants responded to our order through separate briefs, and appellees Range Production Company and Range Resources Corporation also filed a brief concerning jurisdiction. We have considered all of the documents filed by the parties in response to our order.²

We recently held that we do not possess jurisdiction over an interlocutory appeal from a trial court's timely-signed order denying a motion to dismiss under section 27.003 of the civil practice and remedies code. See *Jennings v. Wallbuilder Presentations, Inc.*, No. 02-12-00047-CV, 2012 WL 3500715, at *7 (Tex. App.—Fort Worth Aug. 16, 2012, no pet. h.). Accordingly, for the reasons set forth in *Jennings*, we dismiss appellants' appeal for want of jurisdiction. See *id.* at *3–7.

In their briefs on jurisdiction, appellants asked us to consider this proceeding as a petition for a writ of mandamus if we determined that we did not

²We grant “Appellant Alisa Rich’s Motion for Leave to File Reply to Range Production Company and Range Resources Corp.’s Response to Brief Regarding the Court of Appeals’ Jurisdiction” and the “Motion of Appellants Steven and Shyla Lipsky for Leave to File Reply to Appellant Range’s Jurisdictional Brief Filed July 3, 2012.”

have jurisdiction over the interlocutory appeal. We grant that request. *See id.* at *7. The clerk of this court is directed to transfer all filings in this appeal to cause number 02-12-00348-CV, and any additional filings from the parties with respect to appellants' request for mandamus relief shall be filed in that cause number. If appellants desire to file a brief concerning their request for mandamus relief, the brief must be filed no later than Tuesday, September 4, 2012. If appellees desire to file a brief concerning their opposition to mandamus relief, the brief must be filed no later than Friday, September 14, 2012.³ Any such brief by either party shall not exceed fifteen (15) pages.

TERRIE LIVINGSTON
CHIEF JUSTICE

PANEL: LIVINGSTON, C.J.; DAUPHINOT and GARDNER, JJ.

DELIVERED: August 23, 2012

³In resolving appellants' petition for a writ of mandamus, we will consider the parties' substantive arguments that they have already raised within briefs that they filed in this appeal.