



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

IN RE:

FAMILY DOLLAR STORES OF  
TEXAS, LLC,

Relator.

§

No. 08-16-00109-CV

§

AN ORIGINAL PROCEEDING

§

IN MANDAMUS

§

§

§

**MEMORANDUM OPINION**

Pending before the Court is a joint motion which requests dismissal of this original proceeding. *See* TEX.R.APP.P. 42.1(a). The same motion has been filed in the related direct appeal, *Family Dollar Stores of Texas, LLC v. Ana Maria Ramirez*, No. 08-16-00111-CV. The parties represent in the motion that the trial court has entered an order stating that upon dismissal of this original proceeding, the trial court's May 16, 2016 order will be vacated, and the parties will be compelled to arbitrate pursuant to their agreement. The parties request that we dismiss the original proceeding, but the motion also asks the Court to set aside the trial court's order dated May 16, 2016 without regard to the merits and remand the case for rendition of judgment in accordance with the agreement of the parties. An appellate court cannot dismiss an appeal or original proceeding, and at the same time, grant affirmative relief in the case. Consequently, we

have construed the motion as requesting dismissal of the original proceeding. We grant the motion and dismiss this original proceeding.

STEVEN L. HUGHES, Justice

July 29, 2016

Before McClure, C.J., Rodriguez, and Hughes, JJ.