

Dismissed; Opinion Filed October 21, 2015.



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-13-01653-CV

THOMAS ALLEN POWELL D/B/A ARCHITECTURE UNLIMITED
AND J. KEITH WEBB, Appellants

V.

PENHOLLOW, INC., JOHN O. PENHOLLOW, AND YVONNE L. PENHOLLOW,
Appellees

On Appeal from the 429th Judicial District Court
Collin County, Texas
Trial Court Cause No. 429-03464-2011

MEMORANDUM OPINION ON JOINT MOTION TO DISMISS

Before Justices Bridges, Lang, and Schenck
Opinion by Justice Lang

On June 1, 2015, this Court issued an opinion in this case modifying the trial court's judgment and affirming the judgment as modified. Appellants Thomas Allen Powell d/b/a Architecture Unlimited and J. Keith Webb filed timely first and second motions for rehearing on June 29, 2015, and August 12, 2015, respectively. On July 28, 2015, we denied appellants' first motion for rehearing, withdrew our opinion of June 1, 2015, vacated the corresponding judgment of that date, and issued an opinion on motion for rehearing. Additionally, on September 21, 2015, we denied appellants' second motion for rehearing, withdrew our July 28, 2015 opinion, vacated the corresponding judgment of that date, and issued an opinion on second motion for rehearing.

On October 15, 2015, the parties filed a “Joint Motion to Dismiss Appeal” in this Court in which they (1) state they have “reached an agreement to compromise and settle their differences” in this lawsuit; (2) ask this Court to dismiss this appeal, withdraw the opinion issued, and tax costs on appeal against appellants; and (3) stipulate that their agreement is not conditioned on withdrawal of the Court’s opinion.

We grant the parties’ October 15, 2015 joint motion and dismiss this appeal. *See* TEX. R. APP. P. 42.1(a)(2). Further, we withdraw our September 21, 2015 opinion on second motion for rehearing and vacate the judgment of that date. *See id.* 42.1(c). This is now the opinion of the Court. Pursuant to the parties’ agreement, the costs of this appeal are taxed against appellants. *See id.* 42.1(d).

131653F.P05

/ Douglas S. Lang/
DOUGLAS S. LANG
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

THOMAS ALLEN POWELL D/B/A
ARCHITECTURE UNLIMITED AND J.
KEITH WEBB, Appellants

No. 05-13-01653-CV V.

PENHOLLOW, INC., JOHN O.
PENHOLLOW, AND YVONNE L.
PENHOLLOW, Appellees

On Appeal from the 429th Judicial District
Court, Collin County, Texas
Trial Court Cause No. 429-03464-2011.
Opinion delivered by Justice Lang, Justices
Bridges and Schenck participating.

We **WITHDRAW** our opinion and **VACATE** our judgment of September 21, 2015.
This is now the judgment of the Court.

In accordance with this Court's opinion of this date, we **DISMISS** this appeal.

It is **ORDERED** that appellees PENHOLLOW, INC., JOHN O. PENHOLLOW, AND
YVONNE L. PENHOLLOW recover their costs of this appeal from appellants THOMAS
ALLEN POWELL D/B/A ARCHITECTURE UNLIMITED AND J. KEITH WEBB.

Judgment entered this 21st day of October, 2015.