



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

NO. 2-09-269-CV

SAILSTAR USA, INC.

APPELLANT

V.

SAMAHA ENTERPRISES, INC.
D/B/A CRYSTAL CLEANERS

APPELLEE

FROM THE 17TH DISTRICT COURT OF TARRANT COUNTY

**MEMORANDUM OPINION¹ ON REHEARING
AND JUDGMENT ON REHEARING**

Having considered the parties' joint motion to modify or clarify our original memorandum opinion, we grant the motion, withdraw our memorandum opinion and judgment of October 8, 2009, and substitute the following.

¹ [See](#) Tex. R. App. P. 47.4.

We have considered the parties' agreed motion, in which the parties ask this court "to set aside the default judgment as to SailStar and remand to the district court . . . for further proceedings consistent with the parties' agreement." Therefore, without regard to the merits, we set aside the default judgment, dismiss the appeal, and remand the case to the trial court for further proceedings consistent with the parties' agreement. *See* Tex. R. App. P. 42.1(a)(2).

Costs of the appeal shall be paid by the party incurring same, for which let execution issue. *See* Tex. R. App. P. 42.1(d).

PER CURIAM

PANEL: MCCOY, J.; CAYCE, C.J.; and MEIER, J.

DELIVERED: November 12, 2009