

NO. 07-02-0461-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
OCTOBER 28, 2003

SEARS ROEBUCK AND CO., APPELLANT

V.

CHRISTINE J. TRIPP, INDIVIDUALLY AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF TERRY TRIPP,
DECEASED, AND AS NEXT FRIEND OF THOMAS L. TRIPP,
A MINOR, AND LELAND TRIPP AND BERNADINE TRIPP, APPELLEES

FROM THE 128TH DISTRICT COURT OF ORANGE COUNTY;

NO. A000482-C; HONORABLE PAT CLARK, JUDGE

Before JOHNSON, C.J., and REAVIS and CAMPBELL, JJ.

ON JOINT MOTION

Prior to submission of the merits of this appeal, appellant and appellees filed a joint motion representing that a full and final settlement of all claims has been reached and that

they no longer wish to prosecute this appeal. To seek the trial court's approval of the settlement between appellant and Thomas L. Tripp, a minor child, the parties request the following relief:

- (1) set aside the judgment and remand the case to the trial court for rendition of judgment in accordance with their agreement;
- (2) dismiss the appeal;
- (3) order each party to pay his or her own costs;
- (4) order the trial court clerk to release the supersedeas bonds; and
- (5) issue mandate.

To accord the trial court with jurisdiction to accomplish these matters and effectuate the settlement agreement, we grant the motion and, without regard to the merits of the appeal, set aside the trial court's judgment and remand the cause for further proceedings. See Tex. R. App. P. 42.1(2)(B); see *also* *Kmart v. Jordan*, No. 08-99-00447-CV, 2003 Tex.App.LEXIS 6795, at *1 (Tex.App.–El Paso Aug. 7, 2003). Regarding the supersedeas bonds, we direct the trial court to order the bonds discharged in accordance with the agreement of the parties. Pursuant to the motion, costs are to be assessed against the party incurring them. Tex. R. App. P. 42.1(d). Having set aside the judgment at the request of the parties, no motion for rehearing will be entertained and our mandate will issue forthwith.

Don H. Reavis

Justice