

NO. 07-08-0020-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
APRIL 8, 2009

PEACHTREE CONSTRUCTION, LTD. AND PEACHTREE
CONSTRUCTION, INC., APPELLANTS

V.

MARION NEAL HEAD, APPELLEE

FROM THE 17TH DISTRICT COURT OF TARRANT COUNTY;
NO. 017-214779-05; HONORABLE FRED W. DAVIS, JUDGE

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

ON JOINT MOTION TO DISMISS

By opinion and judgment dated March 10, 2009, this Court affirmed the trial court's judgment awarding Appellee, Marion Neal Head damages of \$191,970 with prejudgment interest in his personal injury action against Appellants, Peachtree Construction, Ltd. and Peachtree Construction, Inc. A motion for rehearing was due on March 25, 2009, but was

not filed. Instead, on March 30, 2009, the parties filed a *Joint Motion to Dismiss* indicating they have agreed to compromise and settle the entire dispute between them.

While our plenary power continues, we now withdraw our opinion and judgment of March 10, 2009, and in lieu thereof, grant the joint motion to dismiss the appeal. Tex. R. App. P. 42.1(a). Having dismissed the appeal at the request of all parties and the deadline for filing a motion for rehearing having expired, our mandate will issue forthwith. No agreement as to costs having been set forth in the motion, costs are taxed against Peachtree Construction, Ltd. and Peachtree Construction, Inc. per Rule 42.1(d) of the Texas Rules of Appellate Procedure.

Patrick A. Pirtle
Justice