

NO. 12-12-00074-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*PINNACLE HEALTH FACILITIES OF  
TEXAS VII LP D/B/A ELKHART OAKS  
CARE CENTER,  
APPELLANT*

§ *APPEAL FROM THE 87TH*

*V.*

§ *JUDICIAL DISTRICT COURT*

*JERRY WATTS AS NEXT FRIEND  
FOR DELORES WATTS AND GARY  
BUTLER ON BEHALF OF THE  
ESTATE OF GLADYS BUTLER,  
APPELLEE*

§ *ANDERSON COUNTY, TEXAS*

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*MEMORANDUM OPINION  
PER CURIAM*

The parties to this appeal have filed an agreed motion to set aside the judgment of the trial court pursuant to their settlement agreement. The motion is signed by counsel for all parties. As grounds for the requested relief, the parties cite Texas Rule of Appellate Procedure 42.1(a)(2)(B). This rule authorizes an appellate court, in accordance with an agreement signed by the parties or their attorneys and filed with the clerk, to set aside the trial court's judgment without regard to the merits and remand the case to the trial court for rendition of judgment in accordance with the agreement. *See* TEX. R. APP. P. 42.1(a)(2)(B).

The parties have complied with the requirements of Rule 42.1(a)(2)(B). Accordingly, we grant the parties' motion, *vacate* the trial court's January 17, 2012 judgment, without reference to the merits, and *remand* this case to the trial court for further proceedings consistent with the settlement agreement of the parties. *See* TEX. R. APP. P. 42.1(a)(2)(B).

Opinion delivered September 18, 2013.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(PUBLISH)



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

SEPTEMBER 18, 2013

NO. 12-12-00074-CV

**PINNACLE HEALTH FACILITIES OF TEXAS VII LP D/B/A ELKHART OAKS CARE  
CENTER,**  
Appellant  
V.  
**JERRY WATTS AS NEXT FRIEND FOR DELORES WATTS AND GARY BUTLER ON  
BEHALF OF THE ESTATE OF GLADYS BUTLER,**  
Appellee

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Appeal from the 87th District Court  
of Anderson County, Texas (Tr.Ct.No. 87-11224)

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THIS CAUSE came to be heard on the appellate record and the agreed motion to set aside the judgment of the trial court pursuant to their settlement agreement, and the same being considered, because it is the opinion of this court that the agreed motion should be **granted**, it is ORDERED, ADJUDGED and DECREED by this court that the trial court's January 17, 2012 judgment be **vacated** without reference to the merits, and this case be **remanded** to the trial court for further proceedings consistent with the settlement agreement of the parties; and that this decision be certified to the court below for observance.

By *per curiam* opinion.  
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.