



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

DISH NETWORK, L.L.C. AND	§	No. 08-15-00287-CV
ECOSPHERE, L.L.C.,	§	
	§	Appeal from the
Appellants,	§	
	§	327th District Court
v.	§	
	§	of El Paso County, Texas
SAUL TENA-MENDIVIL,	§	
	§	(TC# 2015DCV1326)
Appellee.	§	

MEMORANDUM OPINION

Pending before the Court is an agreed motion to dismiss the appeal from the trial court's order denying a motion to compel arbitration. *See* TEX. R. APP. P. 42.1(a)(2). The parties have entered into a joint stipulation in which they have agreed to submit the underlying dispute to arbitration. The parties request that we remand the case to the trial court for entry of an order directing the parties to proceed to arbitration in accordance with their agreement.

While this Court may dismiss an appeal pursuant to an agreement by the parties, we are not permitted to dismiss and remand for further proceedings. *See* TEX. R. APP. P. 42.1(a)(2); *Pate v. Grijalva*, No. 08-09-00067-CV, 2009 WL 1360922, at *1 (Tex.App. – El Paso May 13, 2009, no pet.).

Therefore, we construe the parties' motion as one pursuant to Rule 42.1(a)(2)(B). As so

construed, we grant the parties' motion, and set aside the trial court's order without regard to the merits and remand the case to the trial court for rendition of an order in accordance with the parties' agreement. In accordance with the parties' agreement, costs of appeal are taxed against the party incurring same. *See* TEX. R. APP. P. 42.1(d).

STEVEN L. HUGHES, Justice

March 30, 2016

Before McClure, C.J., Rodriguez, and Hughes, JJ.