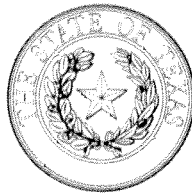


Appeal Dismissed and Opinion Filed January 8, 2013



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-11-00021-CV

GREAT AMERICAN LLOYDS INSURANCE COMPANY, Appellant

V.

AUDUBON INSURANCE COMPANY, Appellee

On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. 07-6321-H

MEMORANDUM OPINION ON REMAND

Before Justices O'Neill, Lang-Miers, and Richter¹
Opinion By Justice Lang-Miers

Appellant Great American Lloyds Insurance Company appealed the trial court's judgment in favor of Appellee Audubon Insurance Company. We issued our opinion and judgment on August 6, 2012, affirming the trial court's judgment. Great American sought and received extensions of time to file its petition for review in the Supreme Court of Texas. Meanwhile, the parties reached a full and final settlement of their claims in this case, and Great American filed a motion to abate the appeal in the supreme court. The supreme court granted the motion, treating it as a petition for review. Without regard to the merits, the supreme court

¹The Honorable Martin E. Richter, Retired Justice, sitting by assignment.

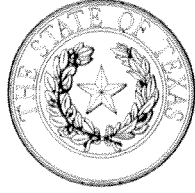
granted the petition and remanded the case to this Court for rendition of judgment in accordance with the parties' settlement agreement.

As part of their settlement agreement, the parties have filed a joint motion asking this Court to withdraw its opinion of August 6, 2012, vacate the judgment of that date, render a judgment of dismissal with prejudice, and tax costs of court against the party incurring the costs. We grant the December 28, 2012 agreed motion. We withdraw our August 6, 2012 opinion in this case and vacate the Court's judgment of that date. This is now the opinion of the Court.

Pursuant to the parties' settlement agreement, we dismiss this appeal with prejudice and tax costs of court against the party incurring the costs. *See* TEX. R. APP. P. 42.1(a)(2)(A).


ELIZABETH LANG-MIERS
JUSTICE

110021F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

GREAT AMERICAN LLOYDS
INSURANCE COMPANY, Appellant

No. 05-11-00021-CV V.

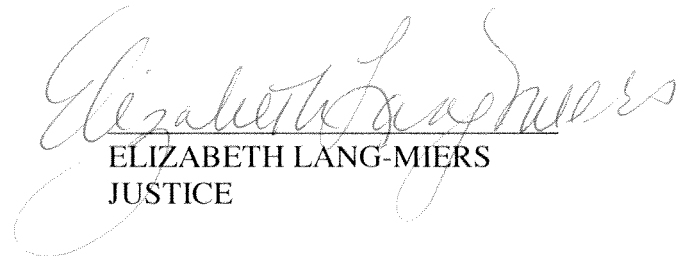
AUDUBON INSURANCE COMPANY,
Appellee

Appeal from the 160th Judicial District
Court of Dallas County, Texas (Trial Court
No. 07-6321).

Opinion delivered by Justice Lang-Miers,
Justices O'Neill and Richter participating.

We withdraw our opinion of August 6, 2012, and vacate the judgment of that date. Based on the Court's opinion of this date, we **DISMISS** the appeal with prejudice. Each party shall bear its own costs of court.

Judgment entered January 8, 2013.


ELIZABETH LANG-MIERS
JUSTICE