

VACATE, REMAND, and DISMISS; and Opinion Filed October 25, 2016.



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

No. 05-10-00126-CV

**MEENAKSHI S. PRABHAKAR, M.D. & INFECTIOUS DISEASE DOCTORS, P.A.,
Appellants/Cross-Appellees**

V.

DAVID FRITZGERALD, Appellee/Cross-Appellant

**On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. 05-08507-H**

MEMORANDUM OPINION

Before Justices Lang-Miers, Brown,¹ and Stoddart²
Opinion by Justice Lang-Miers

On August 24, 2012, we issued an opinion and judgment in this appeal. While motions for rehearing were pending, we abated the appeal pending settlement negotiations and continued the abatement pending resolution of a related proceeding. On October 20, 2016, the parties filed a joint motion to dismiss this appeal in which they stated they have settled their dispute.

Accordingly, we reinstate the appeal. We vacate our judgment of August 24, 2012. Pursuant to the parties' joint motion to dismiss and settlement agreement, we vacate the trial court's judgment without regard to the merits, remand the case to the trial court with instructions

¹ The Honorable Mary L. Murphy, Retired Justice, was a member of the panel at the time the original opinion and judgment issued in this case. Due to her retirement from this Court on June 7, 2013, she did not participate in deciding this case upon reinstatement. She was replaced on the panel by Justice Ada E. Brown in accordance with the appellate rules. *See* TEX. R. APP. P. 41.1(a).

² The Honorable Jim A. Moseley, Retired Justice, was a member of the panel at the time the original opinion and judgment issued in this case. Due to his retirement from this Court on August 24, 2014, he did not participate in deciding this case upon reinstatement. He was replaced on the panel by Justice Craig T. Stoddart in accordance with the appellate rules. *See* TEX. R. APP. P. 41.1(a).

to dismiss the case with prejudice, and dismiss the appeal. We order each party to bear its own costs of appeal.

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE

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

JUDGMENT

MEENAKSHI S. PRABHAKAR, M.D. &
INFECTIOUS DISEASE DOCTORS, P.A.,
Appellants/Cross-Appellees

No. 05-10-00126-CV V.

On Appeal from the 160th Judicial District
Court, Dallas County, Texas
Trial Court Cause No. 05-08507-H.
Opinion delivered by Justice Lang-Miers.
Justices Brown and Stoddart participating.

DAVID FRITZGERALD, Appellee/Cross-
Appellant

We reinstate this appeal. In accordance with this Court's opinion of this date, we vacate our August 24, 2012 judgment. Pursuant to the parties' joint motion, we **VACATE** the trial court's judgment without regard to the merits and **REMAND** the case to the trial court with instructions to dismiss the case with prejudice. The appeal is **DISMISSED**.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 25th day of October, 2016.