

VACATE and DISMISS; and Opinion Filed February 8, 2018.



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

No. 05-17-01038-CV

**PATRICK GORMAN, Appellant
V.
XOCHITL BENVENUTO, Appellee**

**On Appeal from the 193rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-16-01262**

MEMORANDUM OPINION

Before Justices Lang, Brown, and Whitehill
Opinion by Justice Brown

Before the Court is appellant's agreed motion for rehearing on the appellate judgment. We deny the motion. On the Court's own motion, we vacate the opinion and corresponding judgment dated January 22, 2018. This is now the opinion of the Court.

Before the Court is appellant's January 8, 2018 agreed motion to vacate the trial court's judgment. Appellant filed this appeal seeking review of the trial court's final judgment and attendant trial and pretrial rulings. Since filing, the parties agreed to mediation and were able to resolve all of their issues related to this appeal. Per their settlement agreement, the parties wish to set aside the trial court's judgment and dismiss the litigation. Specifically, appellant "prays this Court: (1) vacate the trial court's judgment from which this appeal is taken, without regard to the

merits, and (2) render judgment dismissing [a]ppellee's claims against [a]ppellant with prejudice, with each party bearing its own costs.”

We grant the parties' motion, vacate the trial court's judgment without regard to the merits, and render judgment dismissing the case with prejudice. *See* TEX. R. APP. P. 42.1(a)(1)(A), 43.2(e).

/Ada Brown/

ADA BROWN
JUSTICE

171038F.P05



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

JUDGMENT

PATRICK GORMAN, Appellant

No. 05-17-01038-CV V.

XOCHITL BENVENUTO, Appellee

On Appeal from the 193rd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DC-16-01262.

Opinion delivered by Justice Brown.

Justices Lang and Whitehill participating.

In accordance with this Court's opinion of this date, we **VACATE** the trial court's judgment without regard to the merits, and **RENDER** judgment dismissing the case with prejudice.

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

Judgment entered this 8th day of February, 2018.