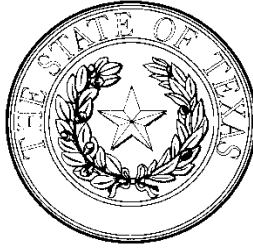


Opinion issued December 1, 2011.



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-10-00777-CV

**BRIAN GABBERT, Appellant
V.
GUSTAVO TORRES, Appellee**

**On Appeal from the 268th District Court
Harris County, Texas
Trial Court Case No. 08DCV164318**

MEMORANDUM OPINION

The Court today considered the parties' joint motion to vacate and remand, in which they request that this Court set aside the trial court's judgment without regard to the merits and remand the case to the trial court for (1) entry of an agreed

final take-nothing judgment in accordance with the parties' settlement agreement and (2) release of the cash surety deposit in the trial court's registry to Allison H. Gabbert to be held in trust in accordance with the parties' agreement. We grant the parties' motion.

We set aside the trial court's judgment without regard to the merits and remand the case to the trial court for the rendition of judgment and release of the cash surety deposit in accordance with the parties' agreement. *See* TEX. R. APP. P. 42.1(a)(2)(B).

PER CURIAM

Panel consists of Justices Jennings, Sharp, and Brown.