

*Court of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-10-00404-CV

**CATERPILLAR, INC.** and Holt Texas, Ltd., d/b/a Holt Cat,  
Appellants

v.

Alfonso **LOPEZ** and Maria Elena Lopez,  
Appellees

From the 57th Judicial District Court, Bexar County, Texas  
Trial Court No. 2007-CI-15864  
Honorable Antonia Arteaga, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice  
Santee Bryan Marion, Justice  
Phylis J. Speedlin, Justice

Delivered and Filed: July 28, 2010

DISMISSED AS MOOT

The parties have filed a joint motion to dismiss this appeal, stating that they have reached an agreement to compromise and settle all matters in controversy between them and that pursuant to that agreement, the trial court has signed an order granting a new trial. The parties represent that the trial court's order, which they have attached, renders this appeal moot. Therefore, we grant the parties' motion to dismiss and dismiss this appeal as moot. *See* TEX. R. APP. P. 42.1(a). Costs of appeal are taxed against appellants. *See* TEX. R. APP. P. 42.1(d).

We also note that the parties have requested that we remand this cause to the trial court. However, the parties have represented that the trial court's order granting a new trial renders this appeal moot; thus, the trial court must necessarily have plenary power to grant the new trial and any remand would not be necessary.

PER CURIAM