

NO. 07-05-0403-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
SEPTEMBER 26, 2006

YOLANDA NELSON AND JAMES L. JOHNSON, APPELLANTS

V.

ALBERTSON'S, INC., APPELLEE

FROM THE COUNTY COURT AT LAW NO. 1 OF TARRANT COUNTY;
NO. 04-23919-1; HONORABLE R. BRENT KEIS, JUDGE

Before QUINN, C.J., and REAVIS and HANCOCK, JJ.

ON SECOND AMENDED JOINT MOTION TO DISMISS

By opinion and judgment dated July 13, 2006, this Court affirmed the trial court's order granting monetary sanctions in favor of appellee Albertson's, Inc. and against appellants Yolanda Nelson and James L. Johnson. On August 2, 2006, Nelson and Johnson filed a motion for rehearing, and on August 28, 2006, the parties filed a first

amended joint motion to dismiss the appeal relying on Rule 42.1(a)(2)(B) of the Texas Rules of Appellate Procedure. The parties indicated they had reached a settlement. The joint motion to dismiss, however, was not accompanied by a signed agreement to be filed with the Clerk of the Court, and resultantly was denied. The motion for rehearing was overruled on September 8, 2006.

While our plenary power continues, the parties have now filed a second amended motion to dismiss the appeal with an executed copy of the Compromise Settlement Agreement. We now withdraw our opinion and judgment of July 13, 2006, and in lieu thereof, grant the joint motion to dismiss the appeal. The trial court's order granting monetary sanctions is set aside without regard to the merits and the cause is remanded to the trial court for rendition of judgment in accordance with the Compromise Settlement Agreement. See Tex. R. App. P. 42.1(a)(2)(B).

It is so ordered.

Don H. Reavis
Justice