

NO. 07-08-0371-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
JANUARY 30, 2009

TOM BERNSON d/b/a BERNSON ENTERPRISES,

Appellant

v.

TRANSIT MIX CONCRETE & MATERIALS COMPANY,

Appellee

FROM THE 181st DISTRICT COURT OF RANDALL COUNTY;

NO. 57,326-B; HON. JOHN B. BOARD, PRESIDING

Dismissal

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Tom Bernson d/b/a Bernson Enterprises, appellant, appealed a judgment of the 181st District Court of Randall County in favor of Transit Mix Concrete & Materials Company, appellee. On December 19, 2008, appellant and appellee, through their counsel, filed a joint motion to abate the appeal and permit proceedings in the trial court to effectuate a settlement agreement. See TEX. R. APP. P. 42.1(a)(2)(C) (authorizing same). The parties have reached an agreement to settle and compromise their differences

and disputes, not only on the issues which are the subject of this appeal, but also in collateral proceedings. We abated the cause to the trial court so that the settlement can be effectuated, and the clerk's record now on file shows that to have occurred.

Accordingly, we reinstate the appeal and dismiss it as settled. Having dismissed the appeal as a result of the settlement, no motion for rehearing will be entertained, and our mandate will issue forthwith.

It is so ordered.

Per Curiam