



IN THE  
TENTH COURT OF APPEALS

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No. 10-09-00115-CV

KAT EXCAVATION, INC.,

Appellant

v.

CITY OF WACO,

Appellee

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From the 170th District Court  
McLennan County, Texas  
Trial Court No. 2007-564-4

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MEMORANDUM OPINION

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Appellant has filed an "Unopposed Motion to Withdraw Notice of Appeal." *See* TEX. R. APP. P. 42.1(a)(1). It states that Appellant desires to withdraw its notice of appeal.

Dismissal of this appeal would not prevent a party from seeking relief to which it would otherwise be entitled. Counsel for Appellee does not oppose the motion. The appeal is dismissed.

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Judge Suzanne Stovall<sup>1</sup>

Dismissed

Opinion delivered and filed September 23, 2009  
[CV06]

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<sup>1</sup> Suzanne Stovall, Judge of the 221st District Court of Montgomery County, sitting by assignment of the Chief Justice of the Texas Supreme Court pursuant to section 74.003(h) of the Government Code. *See* TEX. GOV'T CODE ANN. §74.003(h) (Vernon 2005).