



**IN THE
TENTH COURT OF APPEALS**

No. 10-10-00247-CV

CITY OF MILFORD,

Appellant

v.

NESTOR CALDERON, JR.,

Appellee

**From the 40th District Court
Ellis County, Texas
Trial Court No. 79,293**

MEMORANDUM OPINION

Appellant, City of Milford, filed a notice of appeal from an adverse judgment issued by the trial court. Now, City of Milford has filed an unopposed motion to dismiss the appeal. In the motion, City of Milford requests that we dismiss the appeal and remand the case back to the trial court for completion of the dismissal process.

We are not permitted by the Rules of Appellate Procedure to dismiss the appeal and remand the case. Accordingly, we grant City of Milford's motion in part, set aside the trial court's judgment without regard to the merits, and remand the case to the trial court for further proceedings. *See* TEX. R. APP. P. 42.1(a)(2)(B).

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis

Judgment set aside and remanded
Opinion delivered and filed December 8, 2010
[CV06]