



NUMBER 13-15-00385-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

KAY NORDT BANKER,

Appellant,

v.

JOHN BANKER,

Appellee.

**On appeal from the 130th District Court
of Matagorda County, Texas.**

SUPPLEMENTAL OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Benavides
Supplemental Opinion by Justice Rodriguez**

On March 2, 2017, this Court issued an opinion concerning the division of property in the divorce of John Banker and Kay Banker. We found that the record evidence did not support the trial court's valuation of two bank accounts awarded to Kay Banker, and we suggested a remittitur of \$4,914 in favor of Kay to bring the division in line with the evidence. We affirmed this aspect of the judgment on condition of remittitur. John

Banker has since filed with this Court a certificate verifying his voluntary remittitur in the amount of \$4,914. See TEX. R. APP. P. 46.5. Because John's voluntary remittitur was timely filed and cures the error, we accept the remittitur. See *id.* 46.3, 46.5.

Separately, Kay filed a motion for rehearing concerning matters other than the remittitur. We deny the motion for rehearing.

Accordingly, we vacate our judgment, but not our opinion, of March 2, 2017; we reverse the judgment of the trial court to the extent that it excludes the six horses which were in John's possession at the time of the divorce decree, and we remand for entry of judgment which justly divides this property based on the existing evidence; and we affirm the judgment of the trial court in all other respects. See TEX. R. APP. P. 43.2. This Court's opinion of March 2, 2017 otherwise remains in effect.

NELDA V. RODRIGUEZ
Justice

Delivered and filed the
13th day of April, 2017.