

NO. 12-15-00220-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***ANNA MARIE INMAN,
APPELLANT***

§ ***APPEAL FROM THE 392ND***

V.

§ ***JUDICIAL DISTRICT COURT***

***EQUABLE ASCENT FINANCIAL, LLC,
APPELLEE***

§ ***HENDERSON COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This is an appeal of the trial court’s judgment signed June 10, 2015. No opinion has issued in this case. The parties have filed a joint motion asking this Court “to render judgment effectuating the parties’ agreement that the trial court’s judgment be set aside without regard to the merits and remand the case for entry of a dismissal order by the trial court in accordance with the parties’ agreement.” However, under the Rules of Appellate Procedure, this Court cannot both render judgment effectuating the parties’ agreement and remand the case with instructions to the trial court. Instead, Rule 42.1(a)(2)(A) provides, “In accordance with an agreement signed by the parties or their attorneys and filed with the clerk, the court may . . . render judgment effectuating the parties’ agreement.” TEX. R. APP. P. 42.1(a)(2)(A). Rule 42.1(a)(2)(B) permits an appellate court to “set aside the trial court’s judgment without regard to the merits and remand the case to the trial court for rendition of judgment in accordance with the agreement.” TEX. R. APP. P. 42.1(a)(2)(B).

Based on the content of the parties’ motion, we construe it as requesting that we set aside the trial court’s judgment without regard to the merits and remand the case for rendition of judgment in accordance with the parties’ agreement. *See id.* As so construed, we **grant** the motion, set aside the judgment without regard to the merits, and **remand** this cause to the trial court for further proceedings. *See id.*

Opinion delivered January 20, 2016.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JANUARY 20, 2016

NO. 12-15-00220-CV

ANNA MARIE INMAN,
Appellant
V.
EQUABLE ASCENT FINANCIAL, LLC,
Appellee

Appeal from the 392nd District Court
of Henderson County, Texas (Tr.Ct.No. 2011B-1051)

THIS CAUSE came on to be heard on the joint motion of the parties asking this Court to set aside the trial court's judgment without regard to the merits and remand the case for rendition of judgment in accordance with the parties' agreement, and the same being considered, it is hereby ORDERED, ADJUDGED and DECREED by this Court that the motion be **granted** and that the judgment be set aside without regard to the merits, and the cause **remanded** to the trial court for further proceedings; and that this decision be certified to the court below for observance.

By *per curiam* opinion.
Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.