

NO. 12-18-00193-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

LEASUANCE CALDWELL,
APPELLANT

§ *APPEAL FROM THE*

V.

§ *COUNTY COURT AT LAW NO. 2*

KELSI GABBERT,
APPELLEE

§ *HENDERSON COUNTY, TEXAS*

MEMORANDUM OPINION
PER CURIAM

Appellant, Leasuance Caldwell, appeals from a judgment in favor of Appellee, Kelsi Gabbert. On September 11, 2018, Caldwell filed a notice of settlement and unopposed motion to abate this appeal to allow the parties sufficient time to formalize their settlement agreement. We granted the motion and abated the appeal. On December 12, Caldwell filed an agreed motion to effectuate settlement, which stated that the parties signed settlement documents to formalize and finalize their settlement agreement. Thus, Caldwell requests that this Court effectuate the settlement agreement by rendering judgment setting aside the trial court's judgment.¹

In accordance with an agreement signed by the parties or their attorneys and filed with the clerk, an appellate court may: (A) render judgment effectuating the parties' agreement; (B) 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; or (C) abate the appeal and permit proceedings in the trial court to effectuate the agreement. TEX. R. APP. P. 42.1(a)(2).

Accordingly, we *reinstate* the appeal and *grant* Caldwell's agreed motion to effectuate settlement. See TEX. R. APP. P. 42.1(a)(2)(A). We *render* judgment *setting aside* the trial court's

¹ Caldwell also requests that we dismiss the appeal. However, rendering judgment and remanding in accordance with Rule 42.1 disposes of this appeal without the need for dismissal.

April 26, 2018 judgment without regard to the merits. *See* TEX. R. APP. P. 42.1(a)(2)(B). We ***remand*** the case to the trial court for rendition of judgment in accordance with the parties' agreement. *See id.*

Opinion delivered December 21, 2018.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

DECEMBER 21, 2018

NO. 12-18-00193-CV

LEASUANCE CALDWELL,

Appellant

V.

KELSI GABBERT,

Appellee

Appeal from the County Court at Law No. 2
of Henderson County, Texas (Tr.Ct.No. 00188-CCL2-16)

THIS CAUSE came on to be heard on the agreed motion of the Appellant to effectuate settlement, and the same being considered, it is hereby ORDERED, ADJUDGED and DECREED by this Court that the motion to effectuate settlement be **granted**; judgment is **rendered** setting aside the trial court's April 26, 2018 judgment without regard to the merits; the cause is **remanded** to the trial court for rendition of judgment in accordance with the parties' settlement agreement, and that the decision be certified to the court below for observance.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.