

IN THE STATE COURT OF CLARKE COUNTY

STATE OF GEORGIA

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BEVERLY LOGAN, CLERK
CLARKE COUNTY, GEORGIA

DOCKET INITIALS

NICK STADDON AND COX-STADDON :
ENTERPRISES, INC. D/B/A RED HOUSE :
MEDIA AND D/B/A VBZ.NET, :
Plaintiff, :

v. :

CIVIL ACTION NO.: ST-05-CV-0049

THE REDISTRIBUTION ALTERNATIVE :
INC., WILLARD DALE GRIEVER AND :
NORMA LYNNE GRIEVER, :
Defendants. :

ORDER

Plaintiff filed a Motion to Dismiss Appeal in the above-styled case and a hearing was held on January 5, 2010. For the reasons set forth by the Court at the hearing and preserved as a part of the record, as well as the following, the Court finds:

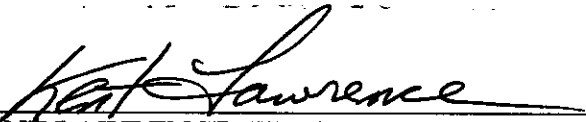
On September 17, 2008, this Court entered judgment in favor of Plaintiff and against Defendants. Defendants filed a Notice of Appeal on October 17, 2008 asking the Clerk of Court to prepare the record and forward it to the Court of Appeals for the State of Georgia. On March 12, 2009, the office of the Clerk of Court submitted an invoice in the amount of \$823.00 to Willard Grier by certified mail, return receipt requested. Defendant Lynne Grier signed the return receipt for the invoice on March 27, 2009. As of January 5, 2010, no appeal costs had been paid by the Defendants. At the hearing, Defendant Lynne Grier asked that the Defendants be given additional time to file a pauper's affidavit regarding the appeal costs.

Pursuant to O.C.G.A. §5-6-48(c), the "trial court may order the appeal dismissed where there has been an unreasonable delay in the transmission of the record to the appellate court, and it is seen that the delay is inexcusable and was caused by the failure to a party to pay costs in the trial court or file an affidavit of indigence." Here, appeal costs in the case have not been paid for over nine months after the invoice was received by the Defendants. Additionally, no affidavit of

indigence was filed at the time of the filing of the notice of appeal or at any time prior to the hearing on Plaintiff's Motion to Dismiss Appeal. The Court finds that the delay in either paying the appeal costs or filing an affidavit of indigence is unreasonable and inexcusable.

Johnston et al. v. Georgia Public Service Commission et al., 209 Ga. App. 224 (1993); Ray v. Williams, 144 Ga. App. 155 (1977). Therefore, the Court, in its discretion, HEREBY GRANTS Plaintiff's Motion to Dismiss Appeal.

SO ORDERED, this 8 day of January, 2010.


KENT LAWRENCE, JUDGE
STATE COURT OF CLARKE COUNTY

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the Order to:

(X) **Attorney for Plaintiff** by U.S. mail to:

**Cynthia Call
191 E. Broad St., Ste 303
Athens GA 30601**

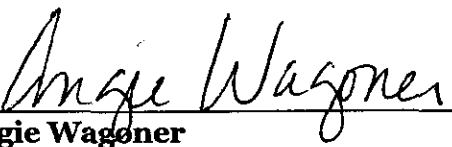
(X) **Defendants** by U.S. mail to:

**The Redistribution Alternative, Inc.
1005 Hull Road
Athens GA 30601**

**Willard Dale Griever
1005 Hull Road
Athens GA 30601**

**Norma Lynne Griever
1005 Hull Road
Athens Ga 30601**

This 8th day of January 2010.



**Angie Wagoner
State Court of Clarke County**