

# Court of Appeals of the State of Georgia

ATLANTA, APR 19 2011

*The Court of Appeals hereby passes the following order:*

**A11A1288. WOODHAM et al. v. THE ATLANTA DEVELOPMENT  
AUTHORITY, et al.**

Appellees The Atlanta Development Authority, 13th Street Holdings, LLC, and Mezzo Development, LLC, moved this Court to dismiss the instant appeal on the grounds that it was improperly taken from an interlocutory order, and that the notice of appeal in the instant case had also been dismissed by the trial court. Our review of the record reveals that this appeal is premature as the trial court has yet to enter a final order or judgment on the merits of the underlying action and that the order from which this appeal was taken, an interlocutory scheduling order, was not properly certified for immediate review as required by OCGA § 5-6-34 (a) (1). Consequently, we lack jurisdiction to consider this appeal, see *Waye v. Continental Special Risks, Inc.*, 289 Ga. App. 82, 83 (656 SE2d 150) (2007), and it is hereby ordered DISMISSED.

The appellees have also asked this Court to impose sanctions pursuant to Rules 7 and 15 (b) against Woodham and appellant Citizens for Ethics in Government, LLC. “A penalty for a frivolous appeal may be assessed in cases where the appellant could have no reasonable basis for anticipating reversal of the trial court’s judgment.” (Citation omitted.) *Hosseini v. Donino*, 222 Ga. App. 697 (2) (475 SE2d 665) (1996). Our review of the record reveals that this appeal was indeed frivolous as it was patently without any jurisdictional foundation and presented nothing for this Court to review. The appellants also failed to inform this Court that their notice of appeal had been dismissed by the trial court and omitted any reference to that event from their appellate record. Moreover, the record supports the appellees’ assertion that the appeal was taken to avoid a scheduled hearing in the trial court on the propriety and amount

of attorneys fees and expenses and other sanctions sought to be imposed against Citizens and Woodham, who is a licensed attorney, following our remand of the case in *Citizens for Ethics in Government v. The Atlanta Development Authority*, 303 Ga. App. 724 (694 SE2d 680) (2010). Consequently, this Court hereby imposes a penalty of \$2,500 against appellant Woodham and \$2,500 against appellant Citizens. The trial court is directed to enter judgment in such amount upon the return of the remittitur in this case. See *Wieland v. Wieland*, 216 Ga. App. 417, 418 (3) (454 SE2d 613) (1995).



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta, APR 19 2011*

*I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court hereto affixed the day and year last above written.*

*Hally K. O. Sparrow* , Clerk.