

# Court of Appeals of the State of Georgia

ATLANTA,

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

PROPOSED ORDER (A12A2042.91) August 27, 2012	
AGREE	DISAGREE

## **A12A2042. PATRICK v. TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA.**

On August 22, 2012, the attorneys for the appellant in this case notified this Court of the plaintiff's recent death. In the notification, counsel stated that the appellant's family was in the process of having an administrator appointed for the estate, adding that "it appears there will be some delay in the appointment." According to counsel, they will need input from the administrator before they will be able to file a reply brief<sup>1</sup> and otherwise move forward with this appeal. Counsel added that it is their understanding that, until an administrator is appointed, "this Appeal is stayed."

In response to counsel's suggestion of the death of the plaintiff, we advise both parties as follows: This case was docketed in August for the September 2012 term. Under the "two-term rule," this Court must dispose of this case by the end of the January 2013 term (on or about April 12, 2013). See Ga. Const. of 1983, Art. 6, Sec. 9, Par. II; OCGA §§ 15-2-4; 15-3-2. As a consequence, this Court is not authorized to stay the appeal indefinitely or to dispose of the appeal after that date, as implied by counsel.

Moreover, pursuant to Court of Appeals Rule 43 (b) and (c), either a legal representative of the deceased or a temporary administrator of the estate may be substituted for the appellant until the final administrator is appointed.

Accordingly, given the circumstances presented, this Court will delay any

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<sup>1</sup> Both the plaintiff and the defendant have filed appellate briefs in this case.

action on this appeal until September 30, 2012. That will provide an opportunity for counsel to file a notice of substitution of the plaintiff with this Court and opposing counsel, pursuant to Court of Appeal Rule 43 (d), and to file a reply brief, if they choose to do so.

If this Court has not received notice of a substituted party by September 30, 2012, however, we will remand this case to the trial court with directions that it remain there until an administrator for the estate is appointed. After the appointment, this case may be resubmitted to this Court for docketing under the original Notice of Appeal, with the administrator serving as the appellant.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta,*

*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 H. O. Sparrow* ..... , Clerk.