

Court of Appeals of the State of Georgia

ATLANTA, SEPTEMBER 19, 2001

The Court of Appeals hereby passes the following order:

**A02A0006. ROCKWOOD INTERNATIONAL SYSTEMS SUPPLY,
INC. v. RADER COMPANIES, INC.**

The above appeal was docketed in this Court on August 16, 2001, from the Superior Court of Gwinnett County. The case originated in the Superior Court of Fulton County and was removed to the Superior Court of Gwinnett County pursuant to OCGA §14-2-510(b)(4), as amended, effective March 30, 2000. In pertinent part, that Code Section provides that “Each domestic corporation and each foreign corporation authorized to transact business in this state shall be deemed to reside and to be subject to venue as follows:...

- (4) In actions for damages because of torts, wrong or injury done, in the county where the cause of action originated. If venue is based solely on this paragraph, defendants shall have the right to remove the action to the county in Georgia where defendant maintains its ~~principle~~ ^{principal} place of business.....”

On September 8, 2000, pursuant to this Code Section, the defendants removed the case from the Fulton Superior Court to Gwinnett Superior Court. On April 2, 2001, appellant, Rockwood International Systems Supply, Inc., filed its Notice of Appeal from an order of the Superior Court of Gwinnett County.

After this appeal was docketed in this Court, it became apparent to appellant that the portion of the record which was generated in Fulton Superior Court was not made a part of the record on appeal pursuant to the Notice of Appeal filed in Gwinnett Superior Court. The statute is silent as to the procedures necessary to transmit the record from the originating court to the Court of Appeals.

The obvious legislative intent of OCGA §14-2-510(b)(4) is to permit a change of venue from the originating county to the county of the ^{principal} principal place of business for the corporation. As with the transfer of any case from one county to another, *it is incumbent upon the transferring county to prepare a copy of the record, index the record, paginate the record, arrange the record in chronological order, and transfer the record, as certified by the clerk of the trial court, to the transferee county.*

Upon receipt of the record from the transferor county, the clerk of the court of the transferee county shall prepare the record as certified by the clerk of the transferring county and certify same and transmit it to the appropriate appellate court for docketing along with the record generated by the transferee county. Although the statute is silent as to the mechanism for such preparation and transfer of the record, this is the only practical way for the appellate court to have the entire certified record brought before the Court. It is a logical conclusion in carrying out the intent of the statute.

Because this Court has a duty and obligation under the Georgia Constitution of 1983, Article VI, Section IX, Paragraph II, to dispose of every case at the term for which it is entered on the Court's docket for hearing or the next term, this Court is constrained to REMAND the appeal to the Superior Court of Gwinnett County until such time as the record can be prepared, certified and transferred from the clerk of the Superior Court of Fulton County to the clerk of the Superior Court of Gwinnett County. After the clerk of the Superior Court of Gwinnett County has received the

record from the clerk of the Superior Court of Fulton County, and has adequately assimilated and prepared the records from Fulton County and Gwinnett County, the clerk of the Superior Court of Gwinnett County is directed to retransmit the certified records to the Court of Appeals for re-docketing.

The clerk of this Court is directed to return the record to the clerk of the Superior Court of Gwinnett County, and upon receipt from the clerk of the Superior Court of Gwinnett County of the complete certified record, re-docket the appeal.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 19 2001

*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.*

Clerk.

Will Z. Martin, III