

# **Court of Appeals of the State of Georgia**

ATLANTA,

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

**A02A0881.        BARBARA MERCK V. BEVERLY J. PHILPOT, ET  
AL.**

On March 19, 2002, this Court issued an order dismissing the above appeal. On April 5, 2002, this Court issued its remittitur, returning jurisdiction to the trial court.

On April 25, 2002, appellees filed their Motion to Recall Remittitur to Reinstate Jurisdiction of the Court of Appeals of Georgia in order for this Court to rule upon appellees Motion for Sanctions filed March 12, 2002.

While the Court's rules permit the imposition of sanctions when the Court deems appropriate, that action is taken sparingly. This is particularly true in matters dealing with pro se parties.

The fact that the Court did not issue an order granting or denying the Motion for Sanctions does not mean the Court was unaware of the motion, nor that the Court did not consider the motion.

There is no requirement that this Court rule upon any motion filed with the Court. If the Court does not rule on the motion, the parties may assume that the motion has not been granted. While the Court can understand the feeling of parties in a lawsuit the Court is also cognizant of the chilling effect that sanctions may have when imposed, particularly against pro se parties.

When the remittitur issues, this Court loses jurisdiction and the remittitur can only be recalled when the remittitur has been transmitted as the result of mistake, irregularity, inadvertence, fraud or the like. See *Slappy v. Georgia Power Company*, 109 Ga. App. 850, 137 SE2d 537 (1964).

Since this Court no longer has jurisdiction over the matter, the motion to recall the remittitur is DISMISSED.

*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.*

*Clerk.*