

Court of Appeals of the State of Georgia

ATLANTA,

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

MOTION DOCKET NO. 17. DENIAL OF MOTION FOR STAY.

The motion for stay of direct appeal, filed by appellants, is denied.

It appears that appellants filed a notice of appeal from an order granting a dismissal of their case or summary judgment to defendants. Thereafter they filed a motion for reconsideration which has not been ruled on.

No stay is warranted. This case differs from Housing Authority v. Geter, 252 Ga. 196 (312 SE2d 309) (1984), Rich v. Georgia Farm Bureau Mutual Ins. Co., 176 Ga. App. 663 (1) (337 SE2d 370) (1985), and Atkinson v. State, 170 Ga. App. 260, 262 (1) (316 SE2d 592) (1984), because they involve motions for new trial, not motions for reconsideration.

When a motion for new trial is filed, an appeal may be taken within 30 days of the ruling on it. OCGA § 5-6-38 (a). However, the time for appeal is not extended for a motion for reconsideration. Cheeley-Towns v. Rapid Group, 212 Ga. App. 183 (1) (441 SE2d 452) (1994). The filing of the notice of appeal divested the trial court of jurisdiction to rule on the

subsequently filed motion for reconsideration, which was of no effect because of its post-notice filing; it is only a motion for new trial for which the trial court is not divested of jurisdiction during the 30-day period. OCGA § 5-6-38 (a).

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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.