

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROY A. DAY,	§
	§
Plaintiff Below,	§ No. 359, 1999
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§ in and for New Castle County
	§
COMPAQ COMPUTER CORP.,	§ C.A. No. 99C-04-219
	§
Defendant Below,	§
Appellee.	§

Before **WALSH, HOLLAND** and **HARTNETT**, Justices.

ORDER

This 20th day of March 2000, it appears to the Court that:

(1) On February 29, 2000, a Notice to Show Cause was issued to appellant directing him to show cause why the appeal should not be dismissed, pursuant to Supreme Court Rule 29(b), for his failure to diligently prosecute the appeal by not filing his opening brief and appendix. Appellant's "Response on Notice to Show Cause" was filed March 8, 2000.

(2) In Appellant's response to the Notice to Show Cause, he states that "if he filed a brief . . . [he] would become a "co-conspirator" with the opposing counsel to engage in 'illegal' conduct. . . ." He states that unless the Court "enters an order directing the opposing counsel to accept the stipulated

and agreed amount of One Cent Per Hour (\$.01), and a cap of \$500.00, for the instant action . . . Appellant cannot proceed.” The Court deems this statement by Appellant to constitute his refusal to file his opening brief and appendix.

(3) Since the appellant filed the appeal in this Court, it is his duty to diligently prosecute the appeal. Appellant's brief and appendix have not been filed as required by Supreme Court Rule 15; therefore, this Court is unable to conduct a meaningful review. In light of appellant's failure to diligently prosecute the appeal by not filing his opening brief and appendix, the dismissal of this action is deemed to be unopposed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 3(b)(2) and 29(b), that the appeal be, and it hereby is,

DISMISSED.

BY THE COURT:

Randy J. Holland
Justice