

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**CM 13-457**

**PATRICIA ANN THOMPSON**

**VERSUS**

**WINN-DIXIE LOUISIANA, INC., ET AL.**

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**APPEAL FROM THE  
SIXTEENTH JUDICIAL DISTRICT COURT  
PARISH OF IBERIA, NO. 112884  
HONORABLE JOHN E. CONERY, DISTRICT JUDGE**

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**JOHN D. SAUNDERS**

**JUDGE**

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Court composed of Sylvia R. Cooks, John D. Saunders, and Marc T. Amy, Judges.

**MOTION TO DISMISS APPEAL DENIED.**

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**SAUNDERS, Judge.**

On October 18, 2012, following a jury trial, the defendant, Winn Dixie Louisiana, Inc., *et al.*, was cast in judgment to the plaintiff, Patricia Ann Thompson, for the sum of \$25,003.75, plus legal interest from the date of the judicial demand until paid. The defendant's subsequent motion for a suspensive appeal was granted on February 1, 2013, upon the posting of a cash bond in the amount of \$29,945.63, deposited into the registry of the lower court.

The Iberia Parish Clerk of Court forwarded a statement to the defendant for estimated costs of appeal totaling \$43,137.50. In light of the "exorbitant" costs, the defendant no longer desires to substantively appeal the judgment of October 18, 2012, and has motioned this court to dismiss the appeal that has not yet been lodged.

Uniform Rules—Courts of Appeal, Rule 2–8.5, provides:

In cases where the parties desire to dismiss or to remand an appeal in which jurisdiction of the appellate court has attached, but in which the record on appeal has not yet been lodged and docketed, the court may nevertheless consider a joint motion to such effect, provided the parties submit their motion signed by all counsel of record, together with, in the case of a motion to dismiss the appeal, the statement of counsel that all costs incurred in the trial court have been paid, or that counsel will be responsible for the payment of same. The motion shall be accompanied by a certificate from the clerk of the trial court indicating that the motion to dismiss or to remand has been signed by all counsel of record and by each party not represented by counsel. It shall show that the appeal bond, if required, has been filed or, in the case of a pauper suit, indicate the lack of necessity for an appeal bond.

The defendant asserts that counsel for the plaintiff has been contacted but could not consent or object to the granting of this motion. Further, the defendant does not allege, nor has it shown, that the remaining requirements of Rule 2–8.5 have been met to allow this court to dismiss the appeal even though it has not been

lodged. Accordingly, we hereby deny the defendant's motion to dismiss the appeal.

**MOTION TO DISMISS APPEAL DENIED.**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.  
Rule 2-16.3 Uniform Rules, Court of Appeal.