

NOT DESIGNATED FOR PUBLICATION

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

CA 18-316

ALINE WATERMAN

VERSUS

**ACADIANA MALL CMBS, LLC D/B/A
THE MALL OF ACADIANA, ET AL.**

**APPEAL FROM THE
FIFTEENTH JUDICIAL DISTRICT COURT
PARISH OF LAFAYETTE, NO. C-20133079
HONORABLE MARILYN CARR CASTLE, DISTRICT JUDGE**

JOHN E. CONERY

JUDGE

Court composed of Shannon J. Gremillion, John E. Conery and Van H. Kyzar, Judges.

APPEAL DISMISSED; CASE REMANDED.

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CONERY, Judge.

Upon the lodging of the record in this appeal, this court, on its own motion, issued a rule for the Plaintiff-Appellant, Aline Waterman, to show cause why the appeal should not be dismissed as premature, citing *Egle v. Egle*, 05-531 (La.App. 3 Cir. 2/8/06), 923 So.2d 780. Plaintiff timely filed a response to this court's rule. For the reasons assigned, we dismiss the appeal without prejudice and remand the case.

The trial court entered a final judgment in favor of the Defendants-Appellees, Acadiana Mall CMBS, LLC; CBL & Associates Management, Inc.; Nickels and Dimes, Inc.; and ABC Insurance Companies, dismissing all claims against the Defendants by the Plaintiff. Plaintiff timely filed a motion for new trial. No hearing was held on the motion. Instead, on the order filed with the motion for new trial asking that the trial court set the motion for hearing, the trial court struck through the order language and handwrote, "Denied for reasons stated in this Court's ruling." The record is devoid of any "reasons" issued by the trial court regarding the motion for new trial, the only reasons appearing of record being those rendered with reference to the final judgment dismissing Plaintiff's claims.

In *Egle*, 923 So.2d 780, this court held that an appeal is premature when taken before a contradictory hearing at which a ruling is entered on all timely-filed post-judgment motions or before a written judgment has been rendered on all such motions. Specifically, this court noted that the trial court's denial of an order to set such post-judgment motions for hearing does not suffice to rule on the merits of the motions. Therefore, this court dismissed the appeal and remanded the matter for a disposition of the post-judgment motions. Accordingly, for the reasons expressed in *Egle*, we likewise dismiss this appeal without prejudice, at Plaintiff's cost, for having been filed prematurely, and remand the matter to the trial court for a ruling on the motion for new trial.

APPEAL DISMISSED; CASE REMANDED.

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