

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2007 CA 2261

**LEE EVERHART, CAROL GOLEMAN AND KAREN BLOOM AS
NATURAL TUTRIX ON BEHALF OF HER MINOR CHILD STEVEN
BLOOM**

VERSUS

**TERRY W. ROBERTSON, JR., WAGGONER TRUCKING, INC.,
PROTECTIVE INSURANCE COMPANY, CAROL GOLEMAN AND
DIRECT GENERAL INSURANCE COMPANY**

Judgment Rendered: May 2, 2008

On Appeal from the Twenty-Second Judicial District Court
In and For the Parish of St. Tammany
State of Louisiana
Docket No. 2006-14762

Honorable Donald M. Fendalson, Judge Presiding

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BEFORE: GAIDRY, McDONALD, AND McCLENDON, JJ.

McCLENDON, J.

In this suit for damages arising from a vehicular accident, the individuals named as plaintiffs in the original petition, Lee Everhart, Carol Goleman, and “Karen Bloom as natural tutrix on behalf of her minor child Steven Bloom,” appealed and assigned as error the dismissal of Ms. Goleman as a plaintiff. We affirm the judgment.

Before reaching the merits, we must address whether the appeal should be dismissed. A motion for dismissal of the appeal, based on the trial court’s dismissal for failure to pay costs, was filed in this court by defendant-appellee, Direct General Insurance Company. A writ application, alleging that costs were paid and the appeal should not have been dismissed in the court below, was filed by plaintiff-appellant, Carol Goleman, and referred by this court to the merits of the appeal. See **Everhart v. Robertson**, 2008CW0567 (La.App. 1 Cir. 3/26/08).

We initially note that appeals are favored, and should not be dismissed unless the reason for dismissal is free from doubt. **Shapiro v. L & L Fetter, Inc.**, 2002-0933, p. 6 (La.App. 1 Cir. 2/14/03), 845 So.2d 406, 410; see also LSA-C.C.P. art. 2126F. A consideration of the goals of LSA-C.C.P. art. 2126, which are to dismiss appeals that have been abandoned and to insure prompt payment of costs, is also helpful in deciding whether an appeal should be dismissed. See **Pray v. First National Bank of Jefferson Parish**, 93-3027 (La. 2/11/94), 634 So.2d 1163, 1163.

Based on the scant information before us, we deny the motion to dismiss the appeal pending in this court, and we grant the writ application only in so far as necessary to maintain the appeal. It appears that at the time of the trial court’s dismissal, the appeal costs had been paid. In addition, as noted by the trial court when it denied a request to reconsider its dismissal,

the appeal was docketed. Finally, it is clear from the record that the appeal was not abandoned.

As to the merits of the appeal, we note that the judgment dismissed Ms. Goleman in her capacity as a defendant, not as a plaintiff as asserted by appellants. Thus, Ms. Goleman is still a named plaintiff in the suit and her claim for damages has not been dismissed.

For these reasons, the judgment is affirmed in accordance with URCA Rule 2-16.2.A(6) & (10). The costs of the appeal are assessed to appellants, Lee Everhart, Carol Goleman, and Karen Bloom.

**MOTION TO DISMISS DENIED; APPEAL MAINTAINED;
JUDGMENT AFFIRMED.**