

[Cite as *Jackson v. Greater Cleveland Regional Transit Auth.*,
2002-Ohio-3799.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80788

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| ZEPORRA JACKSON, ET AL | : | ACCELERATED DOCKET |
| | : | |
| Plaintiffs-appellees: | : | |
| | : | JOURNAL ENTRY |
| vs. | : | and |
| | : | OPINION |
| GREATER CLEVELAND REGIONAL | : | |
| TRANSIT AUTHORITY | : | |
| | : | |
| Defendant-appellant | : | |
| | : | |

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|----------------------|---|---------------|
| DATE OF ANNOUNCEMENT | : | |
| OF DECISION | : | JULY 25, 2002 |

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| CHARACTER OF PROCEEDING | : | Civil appeal from |
| | : | Cleveland Municipal Court |
| | : | Case No. 2000 CVE:9996 |

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| JUDGMENT | : | VACATED AND REMANDED |
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| DATE OF JOURNALIZATION | : | |
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APPEARANCES:

| | |
|---------------------------|--------------------------|
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ROCCO, KENNETH A., P.J.:

{¶1} This cause came to be heard on the accelerated calendar pursuant to App.R. 11.1 and Loc. App.R. 11.1. The purpose of an accelerated appeal is to enable this court to render a brief and conclusory decision. *Crawford v. Eastland Shopping Mall Assn.* (1983), 11 Ohio App.3d 158.

{¶2} Defendant-appellant Greater Cleveland Regional Transit Authority, the prevailing party in this personal injury action instituted by plaintiffs-appellees,¹ appeals from that portion of the trial court's order that stated "all jury fees" were assessed to "defendant."

{¶3} Appellant's sole assignment of error challenges the trial court's authority to allow an ordinary litigation cost to a non-prevailing party. Appellant's assignment of error is sustained on the authority of *Vance v. Roedersheimer* (1992), 64 Ohio St.3d 552, 555.

{¶4} Therein, the Ohio Supreme Court held that Civ.R. 54(D)'s phrase "unless the court otherwise directs" does not empower the trial court to award any type of litigation cost to a non-prevailing party. Rather, the phrase "grants the court discretion to order that the prevailing party bear all or part of his or her own costs." (Emphasis added.)

¹The plaintiffs-appellees, as listed in the complaint, were the following: Zerporra Jackson, Daine (sic) Johnson, Stephanie Fantleroy, Tyrone Smith, Wanda Tatum, and Ernest C. Rudolph.

{¶5} Appellant in this case was the party in whose favor the jury's verdict was rendered, hence, it was the prevailing party. *Hagemeyer v. Sadowski* (1993), 86 Ohio App.3d 563, 566. Under these circumstances, the trial court improperly imposed upon it the cost of the jury trial demanded only by appellees.² *Nelson v. Ford Motor Co.* (2001), 145 Ohio App.3d 58; *Thompson v. Continental General Tire, Inc.* (Mar. 31, 1998), Williams App. No. WM-97-010.

{¶6} Appellant's assignment of error, accordingly, is sustained.

{¶7} That portion of the trial court judgment directing appellant "to pay all jury fees" is vacated. This case is remanded for an order of judgment consistent with this opinion.

This cause is vacated and remanded to the lower court for further proceedings consistent with this opinion.

It is, therefore, considered that said appellant recover of said appellee costs herein.

It is ordered that a special mandate be sent to the Cleveland Municipal Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

²Costs generally are defined, inter alia, as the statutory fees to which jurors and others are entitled for their services in an action and which the statutes authorize to be taxed and included in the judgment. *Benda v Fana* (1967), 10 Ohio St.2d 259, paragraph one of the syllabus.

KENNETH A. ROCCO
PRESIDING JUDGE

ANN DYKE, J. and

DIANE KARPINSKI, J. CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc. App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).