Court of Appeals
of the State of Georgia

ATLANTA, October 16, 2017

The Court of Appeals hereby passes the following order:

A18D0112. KALI SMITH v. FEDEX GROUND PACKAGE SYSTEM, INC.

Kali Smith, plaintiff in the case below, has filed an application for discretionary review of the trial court's order granting summary judgment to the defendant. The trial court's order, however, is subject to direct appeal.

The application materials reveal that Smith filed this action against her former employer, FedEx Ground Packaging Systems, Inc. ("FedEx"), after she was injured in the parking lot of her workplace. The trial court granted summary judgment to FedEx on the ground that Smith's suit was barred by her worker's compensation settlement for the same injury. Pursuant to OCGA § 9-11-56 (h), the grant of summary judgment on any issue or as to any party is reviewable by direct appeal. *Olympic Dev. Group v. American Druggists' Ins. Co.*, 175 Ga. App. 425 (1) (333 SE2d 622) (1985). Although the trial court's order refers to a workers' compensation settlement, this is not an appeal from a decision of the State Board of Workers' Compensation such that the discretionary appeal procedures apply. See OCGA § 5-6-35 (a) (1).

Under OCGA § 5-6-35 (j), this Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, this application is hereby GRANTED. Smith shall have 10 days from the date of this order to file a notice of appeal with the trial court, if she has not already done so. The trial court clerk is directed to include a copy of this order in the record on appeal.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/16/2017

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*