

PAGENET, INC. v. STATE, DEPT. OF REVENUE, 843 So.2d 1027, 28 Fla. L. Weekly D1140 (Fla.App. 1 Dist. 2003)

District Court of Appeal of Florida,  
First District.

PAGENET, INC. f/k/a/ Paging Network of Tennessee, Inc., Appellant,

v.

The STATE of Florida, DEPARTMENT OF REVENUE, Appellee.

No. 1D03-0859.

May 6, 2003.

An appeal from the Circuit Court for Leon County. L. Ralph Smith, Jr., Judge.

### **COUNSEL**

Allen H. Libow, David R. Carls, and Eric J. Stockel, of Libow & Muskat, Boca Raton, for Appellant.

Charles Catanzaro, Assistant Attorney General, Tallahassee, for Appellee.

### **OPINION**

PER CURIAM.

Having considered the appellant's response to the Court's order of March 18, 2003, we dismiss this appeal for lack of jurisdiction. The order on appeal, which dismissed appellant's complaint without prejudice to its right to file an amended complaint that corrects the identified defects, did not end the judicial labor effectuating a termination of the cause. See Augustin v. Blount, Inc., 573 So.2d 104 (Fla. 1st DCA 1991). Furthermore, the order did not become a final order by purporting to be a dismissal with prejudice if the appellant failed to comply with any of the options provided in the order for filing an amended complaint. Ponton v. Gross, 576 So.2d 910 (Fla. 1st DCA 1991). The dismissal is without prejudice to appellant's right to appeal when a final order is rendered in the trial court.

The motion entitled "Appellee's Motion for Order Prohibiting Appellant from Introducing into the Record on Appeal Materials not Filed in the Lower Tribunal," filed on April 9, 2003, is denied as moot.

BOOTH, WOLF and KAHN, JJ., concur.