

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

May 26, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-60407  
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VERIZON BUSINESS NETWORK SERVICES, INC.,

Plaintiff-Appellee,

versus

DIANA DAY-CARTEE,

Defendant-Appellant.

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Appeals from the United States District Court  
for the Southern District of Mississippi  
No. 3:06-CV-650  
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Before GARWOOD, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:\*

This dispute centers on whether defendant Diana Day-Cartee must indemnify plaintiff Verizon Business Network Services, Inc. (“Verizon”), for withhold-

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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ing-tax liability arising from a transfer of stock options. Day-Cartee appeals a summary judgment directing her to pay more than \$2.5 million to Verizon.

The issue of tax liability is pending in the United States Tax Court. This case should not proceed until the tax issue has been determined. Accordingly, we vacate the summary judgment and remand to the district court (in which the magistrate judge is sitting by consent). We instruct the district court to stay the case awaiting a decision by the Tax Court. We note that the district court will have jurisdiction once the Tax Court has ruled on the merits of the tax dispute.

The judgment is VACATED and REMANDED. We express no view on the ultimate merits of the case or on what rulings the district court should make on remand.