IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

RIM COUNTRY REHAB, INC., DBA
RIM COUNTRY HEALTH AND RETIREMENT COMMUNITY,
AN ARIZONA CORPORATION,
Plaintiff/Appellant,

v.

GRANT ROSS AND NAOMI ROSS, HUSBAND AND WIFE,
Defendants/Appellees.

No. 2 CA-CV 2016-0076
Filed January 12, 2017

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Gila County
No. CV201400268
The Honorable Bryan B. Chambers, Judge

APPEAL DISMISSED

COUNSEL

Law Office of Olga Zlotnik, PLLC, Scottsdale
By Olga Zlotnik
Counsel for Plaintiff/Appellant

Choi & Fabian, PLC, Chandler
By Veronika Fabian and Hyung S. Choi
Counsel for Defendants/Appellees

MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Howard and Judge Vásquez concurred.

E C K E R S T R O M, Chief Judge:

¶1 Plaintiff/Appellant Rim Country Rehab, Inc. (Rim Country) filed an action against Grant Ross, Naomi Ross, and Janet Ross. The trial court dismissed Rim Country's claims against Grant and Naomi Ross in a judgment certified as final pursuant to Rule 54(c), Ariz. R. Civ. P. However, the judgment was silent as to Janet Ross.

¶2 Because a judgment is not final and appealable unless it resolves all claims against all parties, this court issued an order to show cause why the appeal should not be dismissed. *See Madrid v. Avalon Care Center-Chandler, L.L.C.*, 236 Ariz. 221, ¶ 3, 338 P.3d 328, 330 (App. 2014) (judgment that does not resolve all claims against all parties generally is not final and may not be appealed). Rim Country filed a response, in which Grant and Naomi Ross joined, claiming that it had settled with Janet Ross and that the trial court's use of Rule 54(c) language "implie[d] approval of the settlement agreement."

¶3 But this court has held that "[a] statement that a judgment is final pursuant to Rule 54(c) when, in fact, claims remain pending does not make a judgment final and appealable." *Madrid*, 236 Ariz. 221, ¶ 6, 338 P.3d at 331; *cf. Sw. Gas Corp. v. Irwin*, 229 Ariz. 198, ¶ 12, 273 P.3d 650, 654 (App. 2012) (certification that judgment is appealable "must be substantively warranted"). The fact that the trial court has not formally dismissed Janet Ross from the action prevents the order from being final and appealable, and this court therefore lacks jurisdiction over this appeal.

¶4 Rim Country has also suggested that this court could "suspend the appeal to allow the trial court to perfect the final judgment" pursuant to Rule 3, Ariz. R. Civ. App. P. But although we may suspend an appeal when a judgment is substantively final but lacks Rule 54(c) certification, *see, e.g., Falcone Bros. & Assocs. v. City of Tucson*, 240 Ariz. 483, ¶ 8, 381 P.3d 276, 281 (App. 2016), we lack jurisdiction to do so when a judgment is not substantively final. *See Madrid*, 236 Ariz. 221, ¶¶ 10-11, 338 P.3d at 331-32. Accordingly, the appeal is dismissed.