

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LINDA MERRITT	§	
(a/k/a LYN MERRITT),	§	No. 598 2009
	§	
Defendant Below,	§	Court Below—Court of
Appellant,	§	Chancery of the State of
	§	Delaware in C.A. No. 3989
and	§	
	§	
BUCK & DOE RUN VALLEY	§	
FARMS, LLC, a Delaware limited	§	
liability company, GRAYS FERRY	§	
PROPERTIES, LLC, a Delaware	§	
limited liability company,	§	
HOPELAND, LLC, a Delaware	§	
limited liability company, MERRITT	§	
LAND, LLC, a Delaware limited	§	
liability company, UNIONVILLE	§	
LAND, LLC, a Delaware limited	§	
liability company, MOORE STREET,	§	
LLC, a Delaware limited liability	§	
company, PDF PROPERTIES, LLC,	§	
a Delaware limited liability company,	§	
PANDORA FARMS, LLC, a	§	
Delaware limited liability company,	§	
PANDORA RACING, LLC, a	§	
Delaware limited company	§	
	§	
Nominal Defendants,	§	
	§	
v.	§	
	§	
R&R CAPITAL, LLC, a New York	§	
limited liability company, and FTP	§	
CAPITAL, LLC, a New York limited	§	
liability company,	§	
	§	
Plaintiffs Below,	§	
Appellees.	§	

Submitted: October 13, 2009  
Decided: October 19, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

## **ORDER**

This 19<sup>th</sup> day of October 2009, the Court has considered the appellant's notice of appeal, and it appears to the Court that:

(1) On September 9, 2009, the appellant, Linda Merritt, filed a notice of appeal ("Merritt's first appeal") from the Court of Chancery's order dated September 3, 2009 in a declaratory judgment action. By Order dated October 5, 2009, the Court dismissed and refused Merritt's first appeal for her failure to comply with Supreme Court Rule 42 ("Rule 42") and/or to demonstrate that review was appropriate pursuant to Court of Chancery Rule 54(b) ("Rule 54(b)").<sup>1</sup>

(2) On October 13, 2009, Merritt filed a notice of appeal ("Merritt's second appeal") from the Court of Chancery's order dated September 14, 2009. Merritt seeks appellate review of that part of the September 14, 2009 order denying her request to stay the September 3, 2009 interlocutory order that was considered and rejected during the course of Merritt's first appeal.

(3) As we noted when considering Merritt's first appeal, an action involving multiple claims and/or multiple parties, such as the underlying Court of Chancery action, does not become final until the entry of the last judgment that resolves all claims as to all parties, unless an interlocutory ruling as to a claim or party is certified pursuant to Rule 54(b). In this case, there being no certification pursuant to Rule 54(b), the Court dismissed Merritt's first appeal for her failure to comply with Rule 42 when taking an appeal from an interlocutory order.

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<sup>1</sup> *Merritt v. R&R Capital, LLC*, 2009 WL 3177603 (Del. Supr.).

(4) For the same reason, Merritt's second appeal must also be dismissed. The Court of Chancery's September 14, 2009 order, from which Merritt's second appeal is taken, did not fully resolve the underlying action as to all claims and/or all parties. Therefore, Merritt's second appeal is from an interlocutory order and was not taken in compliance with Rule 42 or pursuant to Rule 54(b).

(5) The Court will dismiss Merritt's second appeal, *sua sponte*, pursuant to Supreme Court Rule 29(c). Merritt's second appeal, on its face, manifestly fails to invoke the Court's jurisdiction. It is clear to the Court that the giving of notice why Merritt's second appeal should not be dismissed would serve no meaningful purpose, and that any response thereto would be of no avail.<sup>2</sup>

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Supreme Court Rules 29(c) and 42, that Merritt's second appeal is DISMISSED

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>2</sup> Del. Supr. Ct R. 29(c).