IN THE SUPREME COURT OF THE STATE OF DELAWARE

CRYSTAL BUSH,	§	
	§	No. 67, 2001
Plaintiff Below-Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
VICTOR REYES, RED CLAY CONSOLIDATED SCHOOL DISTRICT and ALEXIS I. DUPONT HIGH SCHOOL,	§	in and for New Castle County
	§	C.A. No. 98C-02-005
	§	
Defendants Below-Appellees.	§	

Submitted: April 17, 2001
Decided: May 25, 2001

Before **VEASEY**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

O R D E R

This 25th day of May 2001, upon consideration of the appellees' motion to dismiss and the appellant's response thereto, it appears to the Court that:

(1) The plaintiff-appellant, Crystal Bush, filed this appeal from a decision of the Superior Court dismissing Bush's complaint against the defendants-appellees, Red Clay Consolidated School District ("the District") and Alexis I. Dupont High School ("the School"), for failure to comply with a prior discovery order. Bush previously had obtained a default judgment against defendant-appellant, Victor Reyes, on June 9, 1999.

(2) The District and the School have filed a motion to dismiss Bush's appeal on the grounds that the Superior Court's order dismissing Bush's claims against them is interlocutory and that Bush has not complied with Supreme Court Rule 42, which governs appeals from interlocutory orders. The District and the School contend that, although Bush has obtained a default judgment against Reyes, the judgment against Reyes is not final because it has not been reduced to a liquidated amount. Accordingly, until the amount due from Reyes is fixed, Bush may not pursue an appeal absent compliance with Rule 42.

(3) In her response to the motion to dismiss, Bush concedes that the amount of her judgment against Reyes was never established by the Superior Court at an inquisition hearing. Bush further concedes that she has not complied with the requirements of Rule 42 for taking an interlocutory appeal. Bush nonetheless appears to contend that the Superior Court's order dismissing her claims against the District and the School is a final order because Reyes is judgment-proof and, presumably, that establishing a liquidated amount in damages against Reyes would be futile.

(4) An order is deemed final and appealable if the trial court has clearly declared its intention that the order be the court's "final act" in disposing

of all justiciable matters within its jurisdiction.[1] In a suit for money damages, "settlement of the amount due is a condition precedent to the finality of a judgment."[2] An appeal from a determination of liability only, where damages have not been fixed, constitutes an impermissible interlocutory appeal if the provisions of Rule 42 have not been observed. Bush has not attempted to comply with this Rule.[3]

NOW, THEREFORE, IT IS ORDERED that the appellees' motion to dismiss is granted. This appeal is hereby DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

[1] *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, Del. Supr., 303 A.2d 648, 650 (1973).
[2] *Id.*
[3] *American Reliance Insur. Co. v. Meyer*, Del. Supr., No. 185, 1991, Walsh, J. (July 26, 1991) (ORDER).