

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CATHY D. BROOKS-MCCOLLUM	§
	§ No. 294, 2004
Plaintiff Below,	§
Appellant,	§
	§
v.	§
	§ Court Below—Court of Chancery
KENNETH SHAREEF, RENFORD	§ of the State of Delaware,
BREVETT, MAUDY MELVILLE,	§ in and for New Castle County
VALERIE LONGHURST,	§ C.A. No. 147-N
	§
Defendants Below,	§
Appellees.	§

Submitted: August 18, 2004
Decided: September 30, 2004

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

ORDER

This 30th day of September 2004, it appears to the Court that:

(1) On July 13, 2004, plaintiff-appellant Cathy Brooks-McCollum filed a notice of appeal from a bench ruling pronounced by the Court of Chancery on June 24, 2004, which denied Brooks-McCollum's motion to compel. The Court of Chancery interpreted the motion to compel as a motion for advancement of costs and a motion for a declaration that she is entitled to indemnification. The Court of Chancery denied Brooks-McCollum's request for advancement of costs

to pursue her claims of unjust enrichment, breach of fiduciary duty, and slander against the defendants and denied, as premature, her request for indemnification.

(2) On July 15, 2004, the Clerk of this Court issued a notice, pursuant to Supreme Court 29(b), directing Brooks-McCollum to show cause why this appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 in taking an appeal from an interlocutory order. On July 29, 2004, the Court of Chancery issued its written order supporting its June 24 bench ruling. On August 3, Brooks-McCollum filed a response to the notice to show cause and also separately filed a notice of interlocutory appeal in case No. 335, 2004.

(3) It is clear from the record that the Court of Chancery's June 24 bench ruling and its July 29 supporting order are interlocutory. Although the Court of Chancery has jurisdiction to hear and determine all "actions for advancement of expenses or indemnification" in a summary proceeding,¹ Brooks-McCollum filed her motion to compel such relief as part of a larger action alleging, among other things, defendants' breach of fiduciary duty and slander. Her lawsuit is still pending before the Court of Chancery.

(4) Absent compliance with Rule 42, the jurisdiction of this Court is limited to the review of the final judgment of a trial court.² An order is deemed

¹ 8 *Del. C.* § 145(k).

² *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

final if the trial court has clearly declared its intention that the order be the court's "final act" in the case.³ To date, no final judgment has been rendered on the merits of Brooks-McCollum's claims. Accordingly, this appeal must be dismissed.⁴

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

³ *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).

⁴ By separate order, this Court has addressed Brooks-McCollum's petition for an interlocutory appeal in case No. 335, 2004.