

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

SKOPELOS SEAFOOD & STEAK
RESTAURANT, INC.,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D07-4396

ESTATE OF PAUL GUS SILIVOS
and PAUL GUS SILIVOS TRUST,

Appellees.

_____ /

Opinion filed November 15, 2007.

An appeal from the Circuit Court for Escambia County.
Michael G. Allen, Judge.

Robert O. Beasley of Litvak Beasley & Wilson, LLP, Pensacola, for Appellant.

Teresa N. Phillips of Pohl & Short, P. A., Winter Park, for Appellees.

PER CURIAM.

Upon consideration of the appellant's response to the Court's order of September 20, 2007, the Court has determined that the appellant has prematurely filed the notice of appeal. The order grants summary judgment of all of the counts in the complaint in favor of the appellees, and grants partial summary judgment in favor of

the appellees in the appellees' counterclaim. In the order the court directs the parties to schedule further proceedings to determine damages and states that it will subsequently enter a final judgment. The court has indicated that its judicial labor will continue to be engaged in this lawsuit, and the unfinished business before the lower court concerns a counterclaim interrelated to, and arising out of, the same set of facts as the claims sought to be appealed by the appellant. See S.L.T. Warehouse Co. v. Webb, 304 So. 2d 97, 99 (Fla. 1974); Irvine v. Southwood 1295, 948 So. 2d 981 (Fla. 1st DCA 2007). The appeal is hereby dismissed for lack of jurisdiction.

DISMISSED.

WOLF, POLSTON, and THOMAS, JJ., CONCUR.