

NOT DESIGNATED FOR PUBLICATION

WALTON J. MONTEGUT, M.D. * **NO. 2006-CA-1456**
VERSUS * **COURT OF APPEAL**
3500 ST. CHARLES * **FOURTH CIRCUIT**
PARTNERSHIP, A LOUISIANA
PARTNERSHIP, GEORGE * **STATE OF LOUISIANA**
CHIN AND EGBERT MING

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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2006-8006, DIVISION "J-13"
Honorable Nadine M. Ramsey, Judge

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Judge Dennis R. Bagneris, Sr.

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(Court composed of Judge Dennis R. Bagneris, Sr., Judge Max N. Tobias, Jr., and Judge Edwin A. Lombard)

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MAY 2, 2007

APPEAL

DISMISSED

Defendants, 3500 St. Charles Partnership, George Chin, and Egbert Ming, appeal from a trial court judgment, which granted plaintiff, Dr. Walter J. Montegut's, exception of no cause or right of action. However, the judgment on appeal is a partial judgment that is not immediately appealable pursuant to La. C.C.P. art. 1915.

La. C.C.P. art. 1915, as amended in 1999, allows for an appeal of a judgment that dismisses a lawsuit as to less than all of the parties, defendants, third party plaintiffs, third party defendants, or intervenors. However, section B(1) provides: “[w]hen a court renders a partial judgment or partial summary judgment or sustains an exception in part, as to one or more but less than all of the claims, demands, issues, or theories, whether in an original demand, reconventional demand, cross-claim, third party claim, or intervention, the judgment shall not constitute a final judgment unless it is designated as a final judgment by the court after an express determination that there is no just reason for delay.”

In the present case, plaintiff's claims against defendants are still

pending in the trial court. Further, the trial court's judgment is not designated as final.

Accordingly, we dismiss this appeal and remand this matter to the trial court.

APPEAL

DISMISSED