

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

06-619

**PRESTON HEBERT
VERSUS
CROWN DBL, INC.**

APPEAL FROM THE
OFFICE OF WORKERS' COMPENSATION, DISTRICT 4
PARISH OF ACADIA, NO. 05-3950
HONORABLE SHARON MORROW, DISTRICT JUDGE

**MARC T. AMY
JUDGE**

Court composed of Jimmie C. Peters, Marc T. Amy, and James T. Genovese,
Judges.

APPEAL DISMISSED.

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AMY, Judge.

This court issued a rule for the appellant to show cause, by brief only, why the appeal in this case should not be dismissed as having been taken from a non-appealable partial final judgment. The appellant filed a brief in response to this rule on May 12, 2006. For the reasons assigned, we dismiss this appeal.

The judgment appealed in this matter granted summary judgment on the appellant's claim that he was not timely provided with his choice of orthopedic surgeon. However, the judgment specifically reserved the remaining claims asserted in the appellant's amended 1008 form. The judgment does not designate the judgment as immediately appealable nor does the judgment expressly find that there is no reason to delay an immediate appeal from this judgment.

The appellant filed a motion and order for an appeal from the partial judgment on March 23, 2006. The trial court granted the motion for appeal. The record was lodged in this court on May 5, 2006. On May 8, 2006, this court issued the instant rule for the appellant to show cause why the appeal should not be dismissed.

In the brief filed in this court by the appellant in response to this court's rule, the appellant states that the judgment appealed is a partial, final judgment pursuant to La.Code Civ.P. art. 1915(B). Furthermore, the appellant acknowledges that the trial court has not designated this judgment as immediately appealable as required by this statute before an appeal can be taken. The appellant concludes, as does this court, that the judgment appealed in this matter is not appealable. Therefore, we hereby dismiss this appeal at appellant's cost.

APPEAL DISMISSED.