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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **KRIS D. KATSCH,**

3 Plaintiff-Appellant,

4 v.

No. A-1-CA-37003

5 **FORD MOTOR CREDIT COMPANY, LLC**

6 **and LAWRENCE P. ZAMZOK,**

7 **Individually,**

8 Defendants-Appellees,

9 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

10 **Beatrice J. Brickhouse, District Judge**

11 Robert R. Fuentes

12 Rio Rancho, NM

13 for Appellant

14 Sutin, Thayer & Browne, P.C.

15 Andrew J. Simons

16 Albuquerque, NM

17 for Appellee Ford Motor Credit Company, LLC

18 Lawrence Paul Zamzok

19 Albuquerque, NM

20 Pro Se Appellee

1 **MEMORANDUM OPINION**

2 **VANZI, Chief Judge.**

3 {1} Plaintiff Kris D. Katsch seeks to appeal from an order of the district court
4 dismissing some of his claims against Defendants Ford Motorcredit Company LLC
5 and Lawrence P. Zamzok. We issued a notice of proposed summary disposition
6 proposing to dismiss for lack of a final order. Plaintiff has filed a timely memorandum
7 in opposition, and Defendants have filed a memorandum in support. We have
8 considered Plaintiff’s arguments, and we remain unpersuaded that our initial proposed
9 disposition was incorrect. Accordingly, we dismiss this appeal for lack of a final
10 order.

11 **DISCUSSION**

12 {2} “This Court’s jurisdiction lies from final, appealable orders.” *Coulston Found.*
13 *v. Madrid*, 2004-NMCA-060, ¶ 7, 135 N.M. 667, 92 P.3d 679; *see also* NMSA 1978,
14 § 39-3-2 (1966). Whether an order is final, such that appeal is statutorily authorized,
15 is a jurisdictional question that this Court is required to raise on its own motion. *See*
16 *Britt v. Phoenix Indem. Ins. Co.*, 1995-NMSC-075, ¶ 5, 120 N.M. 813, 907 P.2d 994;
17 *Khalsa v. Levinson*, 1998-NMCA-110, ¶ 12, 125 N.M. 680, 964 P.2d 844.

18 {3} Generally, “an order or judgment is not considered final unless all issues of law
19 and fact have been determined and the case disposed of by the trial court to the fullest

1 extent possible.” (internal quotation marks and citation omitted). *Kelly Inn No. 102,*
2 *Inc. v. Kapnison*, 1992-NMSC-005, ¶ 14, 113 N.M. 231, 824 P.2d 1033. The district
3 court’s order from which Plaintiff seeks to appeal is an order “granting Defendant’s
4 motion to dismiss as to certain claims.” [RP 81] The order goes on to state that “[a]ll
5 causes of action in Plaintiff’s First Amended Complaint for Damages for Negligence,
6 Malicious Abuse of Process, Violation of Unfair Practices Act and Claim for Punitive
7 Damages, filed herein on April 25, 2017 . . . are hereby dismissed to the extent that
8 they are based upon NMSA 1978, § 55-9-620(g) (2001).” [RP 81-82]

9 {4} As we discussed in the notice of proposed summary disposition, the district
10 court’s order does not dispose of the case to the fullest extent possible because
11 Plaintiff’s first amended complaint asserted claims that were not based upon Section
12 55-9-620(g). [RP 48-50] *See Govich v. North Am. Sys., Inc.*, 1991-NMSC-061, ¶ 10,
13 112 N.M. 226, 814 P.2d 94 (stating that an order dismissing fewer than all of the
14 claims generally is not “a final order from which appeal properly may be taken”). In
15 his memorandum in opposition, Plaintiff states that Section 55-9-620(g) was the basis
16 for his entire cause of action. [MIO 1-2] We disagree, however, as Plaintiff’s first
17 amended complaint raised a claim for violations of the Unfair Trade Practices Act
18 based on false and misleading statements and unconscionable trade practices in the
19 collection of delinquent accounts, which were not based on an alleged violation of

1 Section 55-9-620(g). [RP 48-50] Further, the district court’s order clearly
2 contemplates that further proceedings will occur because it orders Defendant to file
3 an answer to the amended complaint within ten days of the order. [RP 82] Finally, the
4 district court’s order does not include the certification language required under Rule
5 1-054(B)(1)NMRA to render the order final and immediately appealable. [RP 81-82]
6 *See* Rule 1-054(B)(1) (requiring the district court to finalize one but fewer than all of
7 the claims upon a certification that “there is no just reason for delay”).

8 {5} Plaintiff also states in his memorandum in opposition that he sought, but was
9 denied, interlocutory appeal of this order from the district court. [MIO 1-2] Plaintiff
10 argues that interlocutory review would be appropriate given the importance of the
11 issues he raises with regard to Section 55-9-620. [MIO 2-6] As the district court did
12 not certify this case for interlocutory appeal, however, we decline to take the matter
13 up at this juncture. *See Ellis v. Cigna Prop. & Cas. Cos.*, 2007-NMCA-123, ¶ 14, 142
14 N.M. 497, 167 P.3d 945 (declining to hear an application for interlocutory appeal
15 where the district court did not certify the issues raised for interlocutory appeal); *see*
16 *also Bell v. Estate of Bell*, 2008-NMCA-045, ¶ 9, 143 N.M. 716, 181 P.3d 708
17 (declining to address an issue that was neither the basis of the district court’s order nor
18 specifically certified for interlocutory appeal).

1 **CONCLUSION**

2 {6} As the district court's order is non-final, the appeal is premature. Once Plaintiff
3 secures a final order disposing of all claims, he may file a notice of appeal from that
4 order. For these reasons, we dismiss the appeal.

5 {7} **IT IS SO ORDERED.**

6

7

LINDA M. VANZI, Chief Judge

8 **WE CONCUR:**

9

10 **MICHAEL E. VIGIL, Judge**

11

12 **M. MONICA ZAMORA, Judge**