

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA12-560

GWYNN X. LAMONT

APPELLANT

V.

HEALTHCARE CAPITAL, INC.

APPELLEE

Opinion Delivered May 1, 2013

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[NO. 23CV-2011-819]

HONORABLE MICHAEL A.
MAGGIO, JUDGE

DISMISSED

BRANDON J. HARRISON, Judge

Gwynn Lamont appeals the grant of summary judgment against him and in favor of Healthcare Capital, Inc. (HCI). We dismiss the appeal due to lack of a final order.

In August 2011, HCI filed a complaint against Connecticut Health of South Windsor, Inc. d/b/a South Windsor Rehabilitation and Nursing Center (CT Health), Thomas J. Demchak, and Gwynn X. Lamont. HCI alleged claims for breach of contract and conversion against all three defendants and a claim for breach of guaranty against Demchak and Lamont. Lamont, proceeding pro se, answered in November 2011 and denied any wrongdoing.

In February 2012, HCI filed a motion for summary judgment as to Lamont. HCI argued that it was entitled to summary judgment against Lamont because his failure to pay HCI the amount owed under the terms of the guaranty breached a contract. Lamont responded, arguing that he had not been given twenty-one days to respond as required by Ark. R. Civ. P. 56(c) (2012). He also argued that there were numerous material facts in



dispute that should preclude a grant of summary judgment.

The circuit court entered an order granting HCI's motion for summary judgment and awarding HCI a \$12,298.19 judgment against Lamont and attorney's fees. Lamont filed a timely notice of appeal from this order.

Although neither party raises the issue, whether a final, appealable order exists is a jurisdictional question that we will raise on our own. *See Moses v. Hanna's Candle Co.*, 353 Ark. 101, 110 S.W.3d 725 (2003). Rule 2(a)(1) of the Arkansas Rules of Appellate Procedure—Civil provides that an appeal may be taken only from a final judgment or decree entered by the circuit court. Ark. R. App. P.—Civ. (2)(a)(1) (2012). Under Arkansas Rule of Civil Procedure 54(b), an order that fails to adjudicate all of the claims as to all of the parties, whether presented as claims, counterclaims, cross-claims, or third-party claims, is not final for purposes of appeal. *Harrill & Sutter, PLLC v. Farrar*, 2011 Ark. 181. Our supreme court has also specifically held that a summary-judgment order is not a final, appealable order where the order does not dispose of the complaints against all of the defendants. *Vimy Ridge Mun. Water Improvement Dist. No. 139 v. Ryles*, 369 Ark. 217, 253 S.W.3d 436 (2007).

Although Rule 54(b) provides a method by which the circuit court may direct entry of final judgment as to fewer than all of the claims or parties, we have no Rule 54(b) certification in this case. The summary-judgment order only disposed of the complaint against Lamont, and there is no indication in the record that the claims against the remaining defendants, Demchak and CT Health, have been disposed of. Thus, we hold that the order appealed from is not a final, appealable order and dismiss the appeal without prejudice.



Cite as 2013 Ark. App. 283

Dismissed.

GRUBER and BROWN, JJ., agree.

Appellant, pro se.

Bequette & Billingsley, P.A., by: *George J. Bequette, Jr.*, for appellee.