

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA09-959

GLOBAL ECONOMIC RESOURCES,
INC.

V.

SABARE SCM SOLUTION, INC.

APPELLANT

APPELLEE

Opinion Delivered February 11, 2010

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[CV-2008-3008-3]

HONORABLE JAY T. FINCH, JUDGE

DISMISSED

DAVID M. GLOVER, Judge

Appellant, Global Economic Resources, Inc., brought an action for breach of contract in Benton County Circuit Court. The original complaint was filed on November 17, 2008, and the named defendants were two individuals, Susindran Swaminathan and Melpakkam Venkataraman, doing business as Sabare SCM Solution, Inc. The record reflects service on both individuals. The answer to the original complaint was filed on December 31, 2008; it asserted several defenses, including the affirmative pleading that “at no times relevant to the allegations of the complaint, did either of the defendants act in an individual capacity or ‘do business as Sabare SCM Solution, Inc.’”

On February 11, 2009, appellant filed an amended complaint with an incorporated Rule 41 motion to dismiss. The amended complaint added Sabare SCM Solution, Inc., a

Georgia corporation, as a separate defendant. The incorporated Rule 41 motion stated: “Pursuant to Rule 41(a), the plaintiff dismisses all allegations against the defendants Susindran Swaminathan and Melpakkam Venkataraman without prejudice.” On April 2, 2009, Sabare SCM Solution, Inc., filed a pre-answer motion to dismiss, asserting that 1) Arkansas lacked personal jurisdiction over it; 2) Global lacked standing to file suit in Arkansas; 3) Global failed to state facts upon which relief could be granted; and 4) venue was not proper in Arkansas. On June 17, 2009, the trial court dismissed, with prejudice, Global’s complaint for lack of personal jurisdiction. Appellant appeals from the June 17, 2009 order of dismissal, contending that the trial court “erred in dismissing the breach of contract action for lack of personal jurisdiction when the appellee traveled to Arkansas to negotiate and sign the contract.” We dismiss the appeal because it is not from a final and appealable order.

Rule 41(a)(1) of the Arkansas Rules of Civil Procedure provides in pertinent part: “Although [a voluntary dismissal under this rule] is a matter of right, *it is effective only upon entry of a court order dismissing the action.*” (Emphasis added.) After the amended complaint and Rule 41 motion were filed, subsequent captions on pleadings filed in this action listed Sabare SCM Solution, Inc., as the sole defendant. However, we find no order in the record from the trial court granting the Rule 41 motion to dismiss the two individual defendants. Because there is no court order granting the Rule 41 motion and dismissing the two individual defendants from the case, the order appealed from, which dismisses only Sabare SCM Solution, Inc., is not final and appealable. *See Bevans v. Deutsche Bank*, 373 Ark. 105, 281 S.W.3d 740 (2008).

Cite as 2010 Ark. App. 139

Appeal dismissed.

GRUBER and BROWN, JJ., agree.