

Lloyd PARKS, Individually and as Administrator of the
Estate of Mary Parks, the Deceased v. HILLHAVEN
NURSING HOME of Little Rock, Dr. John Wolverton and
Little Rock Nursing Center of Little Rock, Arkansas

91-314

827 S.W.2d 148

Supreme Court of Arkansas
Opinion delivered April 6, 1992

APPEAL & ERROR — NO FINAL ORDER ENTERED — APPEAL DISMISSED.

— Where the trial court entered a partial summary judgment on some of the claims for some of the parties and made no express determination that there was no reason to delay an appeal, there was a jurisdictional issue the appellate court could raise on its own motion; the appellate court dismissed the appeal for lack of a final order.

Appeal from Pulaski Circuit Court; *David Bogard*, Judge; dismissed.

William Proctor, Jr., for appellants.

Friday, Eldredge & Clark, by: *Guy Alton Wade*, for appellees.

ROBERT H. DUDLEY, Justice. Appellant filed multiple claims against multiple parties for the alleged wrongful death of his wife. The trial court granted summary judgment in favor of all of the defendants on all of the claims. We reversed. *Parks v. Hillhaven Nursing Home*, 303 Ark. 557, 798 S.W.2d 106 (1990). Upon remand, two of the three defendants again filed motions for summary judgment. The trial court granted *partial* summary judgment in favor of the two defendants on the counts of medical malpractice, negligence, and wrongful death, but held that issues of material fact existed on the other counts against those two defendants. In summary, the trial court entered a *partial* summary judgment on some of the claims for some of the parties, but did not enter a judgment on all of the claims against all of the parties. The appellant again seeks to appeal. We dismiss the appeal for lack of a final order.

[1] Under A.R.C.P. Rule 54(b), the trial court may enter a

final judgment or order in a case involving multiple claims or multiple parties by making an *express determination* that there is no reason to delay an appeal. See *Franklin v. Osca, Inc.*, 308 Ark. 409, 825 S.W.2d 812 (1992). The failure to obtain such a finding of fact or judgment or order presents a jurisdictional issue which we will raise on our own, and absent compliance, we dismiss the appeal for lack of a final order. *Middletown v. Stilwell*, 301 Ark. 110, 782 S.W.2d 44 (1990). There was no final order in this case and accordingly, we dismiss the appeal.
