

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **K & D Industries v King Co Inc**
Docket No. **297726**
L.C. No. **08-003609-CK**

William B. Murphy, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED for lack of jurisdiction because the March 31, 2010 order is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). That order is not a final order under MCR 7.202(6)(a)(i) because it does not dispose of the claims against appellant in appellee's counter-complaint. Further, the claim of appeal cannot be saved by treating it as being taken from the April 21, 2010 order dismissing the claims in the counter-complaint without prejudice. See *Detroit v Michigan*, 262 Mich App 542, 545; 686 NW2d 514 (2004). At this time, appellant may seek to appeal the March 31, 2010 order only by filing a delayed application for leave to appeal under MCR 7.205(F).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 28 2010

Date

Sandra Schultz Mengel
Chief Clerk