

Court of Appeals, State of Michigan

ORDER

Atlas Gas & Oil Company LLC v Leona R Stanek

Docket No. 305824

LC No. 2010-008588-CH

Donald S. Owens
Presiding Judge

Peter D. O'Connell

Michael J. Kelly
Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is GRANTED for the reason that the claim of appeal is not within the Court of Appeals jurisdiction because the August 22, 2011 order appealed from is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A)(1). The August 22, 2011 order is not a final order under MCR 7.202(6)(a)(i) because it is not the *first* order disposing of all claims and adjudicating the rights and liabilities of all the parties. Further, the claim of appeal cannot be saved by treating it as taken from the actual final order entered on July 25, 2011 as the claim of appeal was not timely filed within 21 days after entry of that order. MCR 7.204(A)(1)(a).

We note that nothing in MCR 7.202(6) or 7.203(A) makes the trial court's failure to designate the July 25, 2011 order as the order resolving the last pending claim and closing the case pursuant to MCR 2.602(A)(3), or its erroneous designation of the August 22, 2011 order as such an order, relevant to the status of the July 25, 2011 order as the actual final order under MCR 7.202(6)(a)(i).

We further note that the delayed application in Docket No. 305729 remains pending in this Court.

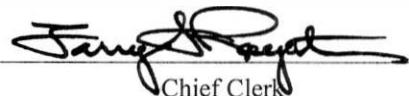
Owens, J., would deny the motion to dismiss.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 25 2011

Date


Chief Clerk