

Court of Appeals, State of Michigan

ORDER

L J & S Development LLC v Boar's Head Provisions Company Inc

Docket No. 326231

LC No. 13-003511-CZ

Jane M. Beckering
Presiding Judge

David H. Sawyer

Joel P. Hoekstra
Judges

The Court orders that the motion to dismiss this appeal for lack of jurisdiction under MCR 7.211(C)(2)(a) is GRANTED because the September 10, 2014 order appealed from 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 appellee's contractual claim for attorney fees. Such a claim for attorney fees based on a contractual provision necessarily constitutes a substantive claim for purposes of MCR 7.202(6)(a)(i) because attorney fees awarded based on such a claim constitute damages, not costs. *Central Transport, Inc v Fruehauff Corp*, 139 Mich App 536, 548; 362 NW2d 823 (1984). The circumstances of *Avery v Demetropoulos*, 209 Mich App 500; 531 NW2d 720 (1994), are inapposite because that case involved entry of two final orders, i.e., an initial final order under MCR 7.202(6)(a)(i) granting summary disposition in favor of the defendant and a second, postjudgment final order under MCR 7.202(6)(a)(iv) awarding attorney fees and costs. In contrast, no final order under MCR 7.202(6)(a)(i) had been entered when the claim of appeal in this case was filed.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

MAY 12 2015

Date

Chief Clerk