

Court of Appeals, State of Michigan

ORDER

Rispens Seeds Inc v Bailey Farms Inc

Docket No. **346245**

LC No. **2016-000052-CK**

Christopher M. Murray, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED for lack of jurisdiction. The October 15, 2018 order is not a final order appealable by right. MCR 7.203(A)(1); MCR 7.202(6)(a). Specifically, MCR 7.202(6)(a)(i) defines a final order to include “the first judgment or order that *disposes of all the claims and adjudicates the rights and liabilities of all the parties.*” (Emphasis added). The October 15, 2018 order did not dispose of the third-party complaint in this case. And, while appellant argues that the parties and trial court recognized that the third-party claim was moot, courts “speak through their judgments” and orders, not their oral statements. *Tiedman v Tiedman*, 400 Mich 571, 576; 255 NW2d 632 (1977). Further, the October 15, 2018 order language, which states that the order “resolves the last pending claim and closes the case,” is not controlling for purposes of this Court’s jurisdiction. *Faircloth v Family Independence Agency*, 232 Mich App 391, 400; 591 NW2d 314 (1998).



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

DEC - 4 2018

Date


Chief Clerk