

# Court of Appeals, State of Michigan

## ORDER

CJ's Excavating Inc v City of Frankfort

Docket No. 302722

LC No. 08-008337-CK

William C. Whitbeck  
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause  
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 February 10, 2011 order appealed from is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). The February 10, 2011 order is not a final order under MCR 7.202(6)(a)(i) because appellee's counterclaim against appellant remained unresolved when that order was entered. We note that appellant may seek to appeal the February 10, 2011 order by filing a delayed application for leave to appeal under MCR 7.205(F).



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

**MAY 03 2011**

Date

  
Chief Clerk