

No. 1-13-2493

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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EvANGEL YHWHNEWBN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 10 L 5150
	)	
ARCHIETTA SHANNON and SPENCER LEAK	)	
and SONS FUNERAL HOME LD., et al.,	)	Honorable
	)	Sheryl A. Pethers,
Defendants-Appellees.	)	Judge Presiding.

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JUSTICE NEVILLE delivered the judgment of the court.  
Presiding Justice Simon and Justice Pierce concurred in the judgment.

**O R D E R**

¶1 **Held:** An appeal from interlocutory orders must be dismissed because the Appellate Court lacks jurisdiction.

¶2 Plaintiff, EvAngel Yhwhnewbn, filed a personal injury complaint against defendants, Archietta Shannon and Leak and Sons Funeral Chapels (Leak and Sons), for injuries she allegedly sustained from Shannon. Plaintiff appeals, *pro se*, from the July 18, 2013, order denying her motion for summary judgment, and from the order of July 30, 2013, in which the

court continued the matter for a ruling on her motion to reconsider the July 18, 2013, order. Although defendants have not filed a brief in response, we may consider the appeal pursuant to the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976).

¶3 The original complaint in this case was filed by plaintiff in May 2010 for an incident that allegedly occurred in May 2009. The case was eventually transferred from the law division to the first municipal district based on the dollar amount, and the matter was later assigned to mandatory arbitration. Plaintiff's motion to reconsider the transfer was denied, and she appealed those orders. While that appeal was pending, she was granted a stay in the circuit court until a decision was entered in this court. On March 20, 2013, this court dismissed plaintiff's appeal for lack of jurisdiction. *Yhwhnewbn v. Archietta Shannon and Leak and Sons Funeral Chapels*, No. 1-12-2147 (2013) (unpublished order under Supreme Court Rule 23).

¶4 The chronology of the filings and proceedings that followed is set forth in our order dismissing her appeal from the denial of her motion for reconsideration, and need not be repeated here. *Yhwhnewbn v. Archietta Shannon and Leak and Sons Funeral Chapels*, 2015 IL App (1st) 133237-U.

¶5 In this appeal, the record shows that on April 17, 2013, plaintiff filed a motion for leave to file a motion for summary judgment. She alleged that she had not waived her right to a jury trial, and objected to any arbitration proceeding. She also alleged that Leak and Sons admitted that Shannon worked for the Leak family, and, therefore, was responsible for Shannon's actions. Plaintiff asserted there was no genuine issue as to any material fact, and that she was entitled to

judgment as a matter of law. On June 27, 2013, plaintiff filed her motion for summary judgment repeating the arguments raised in her motion for leave to file it.

¶6 On July 18, 2013, the circuit court denied plaintiff's motion for summary judgment, and five days later, plaintiff filed a motion to reconsider and vacate that order. She asserted that Leak and Sons failed to respond to her motion for summary judgment, and, therefore, her motion should be granted.

¶7 Plaintiff also asserted that the trial court deprived her of the opportunity to consult case law and erroneously denied her request for a continuance. She maintained that the trial court showed "judicial prejudice," and did not act in conformity with the law, and asserted that the discovery in the case showed that Shannon worked for Leak and Sons. She also filed an emergency motion to strike the arbitration date of August 5, 2013, pending a decision on her motion to reconsider.

¶8 On July 30, 2013, the court entered a written order denying plaintiff's motion to strike the arbitration date, and allowing that date to stand. The court further stated that plaintiff's objection to being forced to present her motion to reconsider and vacate the order of July 18, 2013, set for August 14, 2013, is "discussed and acknowledged but no ruling."

¶9 On August 1, 2013, plaintiff filed a notice of appeal from the "interlocutory judgment" of the circuit court entered on July 18, 2013, and July 30, 2013. She asserts here, *pro se*, that the court abused its discretion in denying her motion for summary judgment without any response or evidence from defendants, and erred when it refused to strike, and forced, the arbitration hearing while her motion to reconsider and vacate the order denying her motion for summary judgment

was still pending. She further asserts that the court was biased against her, which prevented her from receiving a fair and impartial hearing on her motion for summary judgment.

¶10 Illinois Supreme Court Rule 301 allows appeals from final judgments in civil cases as a matter of right. Ill. S. Ct. Rule 301 (eff. Feb. 1, 1994). "An order is final and appealable if it terminates the litigation between the parties on the merits or disposes of the rights of the parties, either on the entire controversy or a separate part thereof." *In re Marriage of Gutman*, 232 Ill. 2d 145, 151 (2008), quoting *R.W. Dunteman Co. v. C/G Enterprises, Inc.*, 282 Ill. 2d 153, 159 (1998).

¶11 The July 18, 2013, order denying the plaintiff's motion for summary judgment was an interlocutory order, and generally these orders are not appealable. *In re Estate of Funk*, 221 Ill. 2d 30, 85 (2006); *Ruby v. Ruby*, 2012 IL App (1st) 103210, ¶34. An exception to this general rule has been recognized where cross-motions for summary judgment have been filed on the same claim and one party's motion is granted while the opposing motion is denied, thereby disposing of all issues in the case. However, the exception does not apply in this case. *In re Estate of Funk*, 221 Ill. 2d at 85.

¶12 The July 30, 2013, order did not terminate the litigation between the parties on the merits or dispose of the rights of the parties, either on the entire controversy or a separate part thereof. *In re Marriage of Gutman*, 232 Ill. 2d at 151. The court merely denied plaintiff's motion to strike the arbitration date, and continued the matter raised in her motion to reconsider -- the denial of her motion for summary judgment -- until August 14, 2013. Since the trial court retained jurisdiction to rule on her motion to reconsider, no final order was entered. *Clark v. Country*

*Mutual Insurance Co.*, 131 Ill. App. 3d 633, 635-36 (1985).

¶13 Moreover, the orders appealed from did not include a Rule 304(a) finding: that there is no just reason for delaying enforcement or appeal or both. Ill. S. Ct. Rule 304(a) (eff. Feb. 26, 2010). However, even if the orders contained the language required by Rule 304, the orders were not final and therefore, they would not have vested this court with jurisdiction to review this appeal. *In re Marriage of Nettleton*, 348 Ill. App. 3d 961, 969 (2004).

¶14 Notwithstanding, plaintiff asserts that this court has jurisdiction pursuant to Illinois Supreme Court Rules 307 (eff. Feb. 26, 2010), 62 (eff. Oct. 15, 1993) and 60 (eff. Dec. 1, 2007), 28 USC § 1331 (2012), and 735 ILCS 5/2-1005, 610, (West 2012)). The only authority cited by plaintiff that is relevant to the appellate court's jurisdiction is Rule 307, which allows for appeals from certain specified interlocutory orders. However, an order denying a motion for summary judgment and an order continuing a motion to reconsider are not included in the list of interlocutory orders specified in Rule 307. Ill. S. Ct. R. 307 (eff. Feb. 26, 2010).

¶15 Accordingly, we find that we do not have jurisdiction to review plaintiff's case and dismiss her appeal.

¶16 Appeal dismissed.