

2013 IL App (1st) 123083-U

FIFTH DIVISION
August 23, 2013

No. 1-12-3083

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CREDIT ONE LLC,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 M1 147261
)	
KEVIN A. HINELINE,)	Honorable
)	James E. Snyder,
Defendant-Appellant.)	Judge Presiding.

JUSTICE PALMER delivered the judgment of the court.
Presiding Justice McBride and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held:* Where defendant appealed denial of his motion to dismiss civil complaint, case did not present an appeal from a final order; appeal is dismissed for lack of jurisdiction.

¶ 2 Defendant Kevin Hineline appeals *pro se* from the trial court's denial of his motion to dismiss a complaint filed by plaintiff Credit One LLC (Credit One) to collect money from him on a delinquent credit card account. On appeal, Hineline contends the trial court failed to rule on his challenge to Credit One's standing to sue him. We dismiss this appeal for lack of jurisdiction.

¶ 3 The record on appeal establishes that on July 14, 2011, Credit One filed a complaint against Hineine alleging that he failed to pay a balance of \$17,677.27 on a Chase Bank credit card account, of which Credit One was the assignee. After Hineine was served with notice of the complaint, he appeared in court *pro se* in March 2012.

¶ 4 On June 19, 2012, Hineine filed a motion to dismiss Credit One's complaint, asserting, among other points, that the transfer of the account from Chase to Credit One was not "properly executed" under Illinois law and asking that the assignment be considered void. Hineine alleged the credit card balance was a result of identity theft perpetrated by a business associate in the Dominican Republic. On July 10, the trial court denied Hineine's motion to dismiss, ordered him to answer the complaint, and set the case for a bench trial on September 13, 2012.

¶ 5 On August 7, Hineine filed an answer to the complaint and also filed a second motion to dismiss, asserting that Credit One did not present proof of the assignment of the account, the original credit contract, or the "specific bill of sale for this Chase account." On September 6, the court denied Hineine's second motion to dismiss and set the case for a status hearing on September 25. On that date, Hineine filed additional motions, including a third motion to dismiss, which the court denied on October 18.

¶ 6 On October 18, Hineine filed a notice of appeal to this court, seeking review of the trial court's September 6 and October 18 orders. The notice of appeal states that Hineine sought the following relief from this court:

"Reverse the denial of motions to dismiss. Judge Snyder addressed the issue of standing on Oct 18 by upholding the motion and dismissing the case. Then, the Plaintiff convinced Judge Snyder that Judge Jones had previously ruled on the issue, causing Judge Snyder to reverse his ruling. Judge Jones addressed merit,

not standing. Rule 90(a) requires standing to be addressed before Arbitration."

¶ 7 On appeal, Hine line contends the trial court erred in denying his motion to dismiss the complaint. Initially, we must address our jurisdiction over this appeal, because a reviewing court has an independent duty to consider its jurisdiction and to dismiss an appeal if jurisdiction is lacking. See *Palmolive Tower Condominiums, LLC v. Simon*, 409 Ill. App. 3d 539, 542 (2011).

¶ 8 This court can exercise jurisdiction only over orders that are final and appealable. *American Country Insurance Co. v. Chicago Carriage Cab Corp.*, 2012 IL App (1st) 110761, ¶ 21. Here, Hine line has appealed the trial court's denial of his motion to dismiss the complaint. In the statement of jurisdiction in his brief, Hine line asserts he has appealed the October 18 judgment "pursuant to Illinois Supreme Court Rule 307 (a)(1)."

¶ 9 The denial of a motion to dismiss is not a final and appealable order within the range of Illinois Supreme Court Rule 307 (eff. Feb. 26, 2010); rather, an order denying a motion to dismiss is an interlocutory order. *Mund v. Brown*, 393 Ill. App. 3d 994, 996 (2009). Rule 307 sets out several types of interlocutory orders from which this court can hear an appeal, and section (a)(1) allows the appeal of an order "granting, modifying, refusing, dissolving or refusing to dissolve or modify an injunction." See Ill. S. Ct. R. 307 (a)(1). The order from which Hine line appeals does not fall into that category or any other category specified in Rule 307. Accordingly, because Hine line has not brought an appeal from a final order, we dismiss this appeal for lack of jurisdiction.

¶ 10 Moreover, Hine line refers in his notice of appeal to various details of the trial court's rulings. Even assuming *arguendo* that we had jurisdiction to consider this appeal, to the extent that Hine line seeks our review of the substance of those rulings, it is Hine line's burden to present this court with a record of the trial court proceedings to support his contentions on appeal. See

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Foutch v. O'Bryant, 99 Ill. 2d 389, 392 (1984). Absent such a record, this court would lack any basis to review the merits of the trial court's decisions in this case.

¶ 11 Appeal dismissed for lack of jurisdiction.