

UNITED STATES COURT OF APPEALS **FILED** United States Court of Appeals
Tenth Circuit
FOR THE TENTH CIRCUIT

NOV 1 1991

ROBERT L. HOECKER
Clerk

NORMAN RICHARDSON,
Plaintiff-Appellant,
v.
OWEN SULLY and TOM DALY,
Defendants-Appellees.

No. 91-3244
(D.C. No. 90-3437-S)
(D. Kan.)

ORDER AND JUDGMENT*

Before LOGAN, MOORE, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

This matter is before us for consideration of our Order directing Appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. The parties have responded, and the case is at issue.

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

The appeal was taken either from an Order resolving numerous outstanding motions, or from the Pretrial Order, or both. Neither Order is final within the meaning of 28 U.S.C. § 1291. An order is final for purposes of appeal only when it ends litigation on the merits and leaves nothing for the court to do but execute judgment. See Coopers & Lybrand v. Livesay, 437 U.S. 463, 467 (1978)(citing Catlin v. United States, 324 U.S. 229, 233 (1945)); In re Glover, Inc., 697 F.2d 907, 909 (10th Cir. 1983). The finality requirement of this section is jurisdictional in nature. Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368, 379 (1981).

The Orders that are the subject of this appeal are routine orders entered in the course of ongoing litigation. They are neither final nor do they fall within a recognized exception to the finality rule. See generally Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949).

Accordingly, we are without jurisdiction. The appeal is DISMISSED.

The mandate shall issue forthwith.

ENTERED FOR THE COURT
PER CURIAM