

**THIRD DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

GORDON BELLO,

Appellant,

Case No. 3D24-1380

v.

HULU, LLC, RAKONTUR LLC
and THOMAS DUANE ARNOLD

Appellees.

APPELLEES' JOINT MOTION TO DISMISS

Pursuant to Florida Rule of Appellate Procedure 9.300, appellees Drexel Avenue Pictures, LLC, erroneously sued as Rakontur LLC ("Drexel"), and Hulu, LLC ("Hulu") (together, "Appellees") move to dismiss the appeal filed by appellant Gordon Bello ("Bello") for two independent reasons.

First, the appeal is untimely. On July 3, 2024, the trial court entered an Order denying Bello's motion for rehearing or reconsideration. Dkt. 77.¹ Bello had 30 days from rendition of the order, until August 2, 2024, to file a "notice with the clerk of the lower tribunal." See Fla. R. App. P. 9.130(c), 9.110(b). To date, Bello still has not filed a notice of appeal with the trial court. Even if Bello's petition for writ of certiorari filed in this Court were

¹ Bello sought rehearing or reconsideration of the trial court's March 18, 2024 Order determining that Appellees are entitled to recover their prevailing party attorneys' fees and costs ("Fee Order"). Dkt. 73.

somehow deemed sufficient, this appeal would still be untimely because it was filed on August 3, 2024 - *i.e.*, 31 days after the trial court's order denying rehearing. As a result, this Court must dismiss the appeal for lack of jurisdiction. See *Hassan v. Garcia*, 382 So. 3d 659 (Fla. 3d DCA 2023) (“Where the notice of appeal is not filed within thirty days of rendition, the appellate court is precluded from exercising jurisdiction over the appeal.”).

Second, this Court lacks jurisdiction because the Fee Order is a non-final, non-appealable order. Appellate courts lack jurisdiction to review an order determining **entitlement** to fees if the order does not also determine the **amount** of fees. See *Perlberg v. Lubercy Asia Holdings, LLC*, 247 So. 3d 627, 628 (Fla. 3d DCA 2018) (“the trial court’s determination that [defendant] is entitled to prevailing party fees . . . is not appealable because the amount of fees has not yet been fixed”); *Valente v. Raissi*, 343 So. 3d 640, 643 (Fla. 2d DCA 2022) (“Because no amount of fees has been ascertained or awarded, we are without jurisdiction to provide appellate relief.”).² Because the Fee Order does not determine the amount of fees to be awarded to Appellees, this appeal must be dismissed as unripe and premature.

² See also *Perini v. Perini*, 322 So. 3d 124, 125 (Fla. 4th DCA 2021) (“An order for attorney’s fees that determines the entitlement but not the amount is unripe for appellate review.”); *Florida Organic Aquaculture, LLC v. Advent Env’tl. Sys., LLC*, 268 So. 3d 910, 912 (Fla. 5th DCA 2019) (“[A] final judgment . . . granting attorney’s fees but reserving jurisdiction to determine the amount is nonfinal as to the issue of attorney’s fees.”).

WHEREFORE, Appellees respectfully request that this Court dismiss the appeal.

Dated: August 28, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on August 28, 2024, a true and correct copy of the foregoing has been furnished via the Florida Courts E-Filing Portal to: Joseph D. Garrity (jgarrity@loriumlaw.com) of Lorium Law, 101 N.E. 3rd Avenue, Suite 1800, Fort Lauderdale, Florida 33301.

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