

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

April 12, 2011

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No. 10-30371  
Summary Calendar

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Lyle W. Cayce  
Clerk

GRAND ACADIAN, INCORPORATED,

Plaintiff,

v.

FLUOR ENTERPRISES, INCORPORATED,

Defendant - Cross-Defendant -  
Appellee,

v.

DEXTER J. HONORE; DEXTER HONORE CONSTRUCTION COMPANY,  
LIMITED LIABILITY CORPORATION,

Defendants - Cross-Claimants -  
Appellants.

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Appeal from the United States District Court  
for the Western District of Louisiana  
2:07-CV-295

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Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 10-30371

Defendants-Appellants Dexter J. Honore and Dexter Honore Construction Company (DXHC) appeal from the district court's entry of summary judgment that dismissed their claims against Cross-Defendant - Appellee Fluor Enterprises, Inc. (Fluor). Although plaintiff Grand Acadian's main demand in the underlying case was settled and dismissed, the parties agree that at least the following claims are still pending in the district court: (1) Fluor's cross-claim against DXHC for contractual indemnity; (2) Fluor's third party claims for defense and indemnity against The Gray Insurance Company (Gray) and United National Insurance Company (United National); and (3) DXHC's third party claim for defense and indemnity against United National. Absent Rule 54(b) certification in a multiparty suit, an order of "summary judgment adjudicating the claims of fewer than all the parties is not a final appealable judgment within the meaning of 28 U.S.C. § 1291." *Melancon v. Ins. Co. of N. Am.*, 476 F.2d 594, 595 (5th Cir. 1973).

We therefore dismiss the appeal for lack of jurisdiction. If the trial court enters a new judgment and accompanies it with a proper Rule 54(b) certificate, the second appeal may be submitted on the record and briefs prepared for this appeal as supplemented by the new judgment and certificate. *Id.*

DISMISSED.