

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-10725  
Summary Calendar

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Russell Canfield and Peggy Canfield,

Plaintiffs-Counter  
Defendants-Appellants,

versus

American Eurocopter Corporation, Dan  
Hagler, Christian Gras, and Linda Burket,

Defendants-Counter  
Claimants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
(4:99-CV-145-Y)

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December 2, 1999

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Russell and Peggy Canfield (“the Canfields”) appeal from a district court order granting the defendants summary judgment. We dismiss for lack of jurisdiction.

On May 24, 1999, the district court granted defendants’ cross-motion for summary judgment on the Canfields’ claims but denied plaintiffs’ motion for partial summary judgment. On June 8, 1999, the district court granted defendants’ motion to set aside the final judgment and reopen the case, expressly allowing the case to “proceed regarding Defendants’ counterclaims.”

Our jurisdiction extends only to “final decisions of the district courts” and certain interlocutory orders inapplicable here. *See* 28 U.S.C. §§ 1291, 1292. “Where a claim is wholly

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5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

determined, it is nevertheless not appealable in the absence of a Rule 54 certificate if other claims which have not been wholly determined remain pending in the same suit.” *Sidag Aktiengesellschaft v. Smoked Foods Products Co., Inc.*, 813 F.2d 81, 84 (5<sup>th</sup> Cir. 1987). Here, the Canfields have not received Rule 54(b) certification to appeal the grant of summary judgment as to their claims, and defendants’ counterclaims still await resolution in the district court. The grant of summary judgment as to the Canfields’ claims thus “lacks the requisite finality to be appealable within the meaning of 28 U.S.C.A. § 1291.” *Johnson v. McDole*, 526 F.2d 710, 711 (5<sup>th</sup> Cir. 1976) (per curiam).

Accordingly, the appeal is DISMISSED.