Court of Appeals
of the State of Georgia

ATLANTA, January 23, 2017

The Court of Appeals hereby passes the following order:

A17A0873. JAMES HUGH POTTS II et al. v. EDWARD SERGIO RUEDA et al.

On October 31, 2016, Plaintiffs James Hugh Potts II, James Hugh Potts II, LLC, and James Hugh Potts II Chicago, LLC, filed a notice of appeal from an October 19, 2016 order granting a defendant's motion for appointment of an auditor and an October 6, 2015 order denying the plaintiffs' motion for summary judgment. We lack jurisdiction for two reasons.

First, neither order is a final order, and the record indicates that the case remains pending below. Accordingly, the plaintiffs were required to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) to obtain appellate review at this point. See *Pace Constr. Corp. v. Northpark Assoc.*, 215 Ga. App. 438, 439 (450 SE2d 828) (1994). Because the plaintiffs failed to comply with the requisite interlocutory procedures, their appeal at this juncture is premature.

Second, even if the plaintiffs had a right of direct appeal as to the October 6, 2015 order, the October 31, 2016 notice of appeal is untimely as to that order. A notice of appeal must be filed within 30 days after entry of the appealable decision or judgment complained of. OCGA § 5-6-38 (a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. *GMC Group v. Harsco Corp.*, 293 Ga. App. 707 (667 SE2d 916) (2008). Because the notice of appeal was filed more than a year after entry of the October 6, 2015 order, it is untimely as to that order.

Based on the foregoing, we lack jurisdiction over this appeal, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/23/2017
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*