

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PROJECT LABRADOR  
HOLDCO, LLC,

Defendant Below,  
Appellant,

v.

BAKKT OPCO HOLDINGS,  
LLC,

Plaintiff Below,  
Appellee.

§

§ No. 340, 2026

§

§ Court Below–Superior Court  
§ of the State of Delaware

§

§ C.A. No. N25C-12-316

§

§

§

§

§

§

Submitted: August 13, 2026

Decided: August 20, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR** and **LEGROW**, Justices.

**ORDER**

After consideration of the notice to show cause and the appellant’s response, it appears to the Court that:

(1) On August 6, 2026, Project Labrador Holdco, LLC (“Project Labrador”), filed a notice of appeal from the Superior Court’s June 12 decision granting the appellee’s motion for judgment on the pleadings and the Superior Court’s July 7 order denying Project Labrador’s motion for reargument. Because the appellee moved for attorney fees and costs in the Superior Court on August 6, the Senior Court Clerk issued a notice to Project Labrador to show cause why this appeal

should not be dismissed for its failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order.

(2) Project Labrador has responded to the notice to show cause and advises the Court that it filed a notice of appeal out of an abundance of caution. In the event that the Court dismisses this appeal, Project Labrador asks that the filing fee paid in connection with this appeal be applied to any future appeal it may file from a final judgment.

(3) Absent compliance with Rule 42, the appellate jurisdiction of this Court is limited to the review of a trial court's final judgment.<sup>1</sup> "A final judgment is generally defined as one [that] determines the merits of the controversy or the rights of the parties and leaves nothing for future determination or consideration."<sup>2</sup> As Project Labrador acknowledges, this appeal is interlocutory because the appellee's motion for attorney fees and costs remains pending in the Superior Court and it did not comply with Rule 42.<sup>3</sup> This appeal must therefore be dismissed.

---

<sup>1</sup> *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

<sup>2</sup> *Showell Poultry, Inc. v. Delmarva Poultry Corp.*, 146 A.2d 794, 796 (Del. 1958).

<sup>3</sup> See, e.g., *Wollner v. PearPop, Inc.*, 2022 WL 2903103, at \*1 (Del. July 21, 2022) (dismissing appeal as interlocutory where the amount of the attorney fee award remained unresolved).

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal be DISMISSED under Supreme Court Rule 29(b). The filing fee paid by the appellant shall be applied to any future appeal it files from a final order entered in this case.

BY THE COURT:

/s/ Gary F. Traynor  
Justice