

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-1824

CONSTANCE BUCHANAN, as legal
guardian of John Doe 3, a
fictitious name for a minor,

Appellant,

v.

CROSSROADS UNITED
METHODIST CHURCH, INC., a
Florida Non-Profit Corporation,
CAMPUS CRUSADE FOR CHRIST,
INC., and CHRISTOPHER ROBERT
BACCA,

Appellees.

On appeal from the Circuit Court for Duval County.
Robert M. Dees, Judge.

June 20, 2018

PER CURIAM.

Upon consideration of Appellee's Motion to Dismiss Appeal and Appellant's Response in Opposition, the Court has determined that the appeal must be dismissed because the "Order Granting Defendant's Motion for Partial Final Judgment as to Count VIII" is not an appealable partial final judgment. *See Jensen v. Whetstine*, 985 So. 2d 1218, 1220 (Fla. 1st DCA 2008)

“An order is not an appealable partial final order where there is a factual overlap between the pending claims and the claims resolved by the order.”) *Cf.* Fla. R. App. P. 9.110(k). “An appeal from an order dismissing a count of a complaint, where other counts against the same parties remain, is authorized only when the dismissed count arises from a separate and distinct transaction independent of the other pending, pleaded claims.” *Biasetti v. Palm Beach Blood Bank, Inc.*, 654 So. 2d 237, 238 (Fla. 4th DCA 1995); *see also Harrison v. J.P.A. Enters., LLC*, 51 So. 3d 1217, 1219 (Fla. 1st DCA 2011). Appellant’s complaint includes two pending counts alleging claims against the same defendant for damages stemming from the same conduct as Count VIII. Therefore, the claims are interrelated and the order on Count VIII is not independently appealable as a partial final judgment pursuant to Florida Rule of Appellate Procedure 9.110(k).

The appeal is hereby DISMISSED.

ROWE, KELSEY, and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Gerald B. Stewart, Jacksonville; Willie J. Walker of The Walker Law Offices, P.A., Jacksonville, for Appellant.

Michael R. D'Lugo of Wicker Smith O'Hara McCoy & Ford, P.A., Orlando, for Appellee Campus Crusade for Christ.

No appearance for Appellees Crossroads United Methodist Church or Christopher Robert Bacca.