

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-12405

Non-Argument Calendar

IOU CENTRAL, INC,
d.b.a.
IOU Financial, Inc.,

Plaintiff-Appellant,

versus

PREMIER METALS RECOVERY LLC,
DAVID RAY PACE,
LYNN RAWL PACE,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:20-cv-04270-MHC

Before LUCK, LAGOA, and MARCUS, Circuit Judges.

PER CURIAM:

IOU Central, Inc. (“IOU”) appeals the district court’s dismissal for lack of personal jurisdiction of its lawsuit against one of the three Defendants it sued, Lynn Rawl Pace (“L. Pace”). Because the district court’s order is not a final order within the meaning of 28 U.S.C. § 1291, we dismiss for lack of appellate jurisdiction.

I.

The facts of this case are straightforward.¹ IOU, the plaintiff in the trial court, is a company incorporated in Delaware, with its principal place of business in Georgia. L. Pace, along with David Pace (“D. Pace”) and Premier Metals Recovery (“Premier”) (together, the “Defendants”) are citizens of North Carolina that have borrowed money from IOU since 2019. L. Pace and D. Pace are married.

¹ At the motion to dismiss stage, we accept the allegations in the complaint as true and construe them in the light most favorable to the plaintiff. *See Mesa Valderrama v. United States*, 417 F.3d 1189, 1194 (11th Cir. 2005).

21-12405

Opinion of the Court

3

The case arises from one of those loan applications. On July 16, 2020, D. Pace applied for a loan on behalf of Premier to IOU's Georgia office through the company's online application portal. Through the same website, D. Pace executed a Promissory Note ("Note") for a principal sum of \$84,800.00 in exchange for the equivalent value of funds, and he granted a security interest to IOU on property, proceeds, and assets as collateral for the loan. D. Pace also executed a Personal Guaranty Agreement ("Guaranty") on the same day via IOU's website. Both parties agree that only D. Pace, on behalf of Premier, communicated with IOU regarding the loan and related documents. L. Pace is a non-party to these agreements.

IOU eventually sued the Defendants, arguing that they made misrepresentations to IOU about their intent or their ability to repay the Loan, and breached the agreements in the Note and Guaranty shortly after receipt of the funds. The Defendants moved to dismiss for lack of personal jurisdiction, and the district court originally granted that motion in favor of all the Defendants on June 8, 2021, entering judgment dismissing the action on the same day. With respect to L. Pace, the district court explained that it lacked jurisdiction over her because she was not party to and did not sign the loan documents, Note, or Guaranty, and because IOU did not allege any facts to support finding that L. Pace transacted business in Georgia.

IOU moved for reconsideration pursuant to Rules 59 and 60 of the Federal Rules of Civil Procedure on July 7, 2021, but on the very next day, IOU appealed to this Court. After IOU filed its

notice of appeal, the district court granted in part and denied in part IOU's motion for reconsideration, on November 9, 2021.

On December 22, 2021, a panel of this Court entered an order directing the parties to provide their opinions on IOU's motion for reconsideration and on whether the district court had jurisdiction when it issued its November 9 order regarding that motion. We then entered an order holding that the district court lacked jurisdiction when it granted in part IOU's motion for reconsideration, treating the trial court's November 9 order as an indicative ruling, and remanding the case on a limited basis to have the trial court rule as it had indicated. *See Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance -- it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). On this limited remand, the district court held that it could properly exercise personal jurisdiction over D. Pace and Premier because they expressly submitted to personal jurisdiction in Georgia in the Note and Guaranty -- but it did not change its ruling with respect to L. Pace.

II.

Before considering the merits of IOU's appeal, we must ask whether we have appellate jurisdiction over it. We do not and we therefore dismiss this appeal.

"As a court of limited jurisdiction, we may exercise appellate jurisdiction only where 'authorized by Constitution and statute.'"

21-12405

Opinion of the Court

5

Jenkins v. Prime Ins. Co., 32 F.4th 1343, 1345 (11th Cir. 2022) (quoting *Kokkonen v. Guardian Life Ins. of Am.*, 511 U.S. 375, 377 (1994)). By statute, Congress has authorized us to review “final decisions of the district courts.” See 28 U.S.C. § 1291; see also *SmileDirectClub, LLC v. Battle*, 4 F.4th 1274, 1277 (11th Cir. 2021) (en banc) (quotation marks omitted) (“As a circuit court, we generally only have jurisdiction over appeals from final decisions of the district courts.”). There are a select few limited exceptions to this “final order” rule, none of which apply here. See *Jenkins*, 32 F.4th at 1345–46 (discussing 28 U.S.C. 1292(b), Federal Rule of Civil Procedure 54(b), and the collateral order doctrine).

A final decision “is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” *Sabal Trail Transmission, LLC v. 3.921 Acres of Land in Lake Cnty.*, 947 F.3d 1362, 1370 (11th Cir. 2020) (quotation marks omitted). In order to qualify as a final decision, “the district court’s order generally must adjudicate all claims against all parties, thereby ending the litigation.” *Corsello v. Lincare, Inc.*, 276 F.3d 1229, 1230 (11th Cir. 2001).

The district court’s original order dismissing all the Defendants for lack of personal jurisdiction was, at one point, a final order. We issued a limited remand, however, allowing the district court to reconsider its previous order. On remand, the district court concluded that it did indeed have personal jurisdiction over D. Pace and Premier, although not over L. Pace. The district court noted, “the pending appeal as it relates to the prior finding of the Court

that it did not have personal jurisdiction over [D. Pace and Premier] is likely moot.” This means that the case against D. Pace and Premier is still ongoing in the trial court. It also means, for our purposes, that the district court’s original order is no longer a final order because it does not adjudicate all claims against all parties. It only makes a final adjudication as to L. Pace.

Because IOU does not appeal a “final order” within the meaning of 28 U.S.C. § 1291 and no other basis for our appellate jurisdiction exists, we **DISMISS** this appeal.