WCTC v. Terry, 14 ROP 184 (2007)
WESTERN CAROLINE TRADING COMPANY,
Appellant,

v.

ROSE TERRY, CLAUDIA TITIML,
LISA SANDEI and SHANE MELWAT,
Appellees.

CIVIL APPEAL NO. 07-027
Civil Case No. 06-188

Supreme Court, Appellate Division
Republic of Palau

Decided: September 4, 2007

Counsel for Appellant: David Shadel

Counsel for Appellees: Pro Se

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice; KATHLEEN M. SALII, Associate Justice

On July 2, 2007, Appellant filed a "Notice of Appeal of May 31, 2007, Order" with the Appellate Division. As explained in the appealed May 31st Order, the Trial Division issued the Order in response to a "Stipulation for Order" and a proposed "Order in Aid of Judgment" as to one of the defendants in the case, Shane Melwat. Default judgment had been entered against Defendant Melwat and another defendant, Lisa Sandei, but no judgment had been entered as to the other two defendants. The May 31st Order informed the parties that the court would not approve the proposed orders because the court found that "the proposed order in aid of judgment seeks an award of fees that is not reasonable." Instead, the Order directed the parties to "submit a revised Stipulation and Order in Aid of Judgment for the original judgment balance of $422.22 plus post-judgment interest," and instructed the parties that the revised Order should "not contain the waiver [of RPPL 7-11] language found at the bottom of page 2 of the original proposed order."

On August 1, 2007, after reviewing the Notice of Appeal, this Court issued an Order ⊥185 to Show Cause stating that, "It appears from the record in this case that a final judgment has not yet been entered and that this matter is not yet ripe for appeal." Appellant was ordered to show cause why its appeal should not be dismissed. In response to that Show Cause Order, Appellant asserts that the March 23rd default judgment entered against Defendant Melwat meets the finality requirements of Rule 54(b) of the Rules of Civil Procedure. The March 23rd default judgment is final and may be appealed, but, as indicated in the Notice of Appeal, the appeal concerns the May 31st Order of the court, not the March 23rd default judgment. The requirements

of Rule 54(b) are not pertinent to the Court's consideration of this appeal.

Appellant also argues that the May 31st Order is appealable because "it is final as to the matters in the Stipulation," citing *ROP v. Gibbons*, 1 ROP Intrm. 547A (1988), and *Olikong v. Salii,* 1 ROP Intrm. 406 (1987). In both of those cases, the Court examined whether the order being appealed "effectively disposed of the issue presented to it." *Olikong v. Salii,* 1 ROP Intrm. 406, 411 (1987). The Court determined that where there is "no prospect nor need to explore further any other factual or legal issue," orders may be subject to appellate review because "the order finally determined the issue and dispute between the parties." *Id*. at 411. The same is clearly not true of the May 31st Order. Instead of deciding the issues present in that Order, the trial court ordered the parties to submit revised proposals which the court would review for reasonableness. The trial court heard no arguments regarding the justification of the fees requested and Appellant neither submitted the revised order as requested nor further briefed the issue for the trial court.

Distinct from the cases cited by Appellant, the parties in this matter had recourse available to them before the Trial Division. Rather than advocating its position to a final determination before the trial court, Appellant chose to submit this appeal. Before appellate consideration is given to this matter, the trial court should have the opportunity to consider and decide any arguments Appellant may have regarding the reasonableness of its proposed order. Appellate jurisdiction is limited to final decisions of the Trial Division and, here, the order in controversy is simply not final. As such, consideration of this issue now would be premature. *See, e.g., Williams v. Ezell,* 531 F.2d 1261, 1263 (5th Cir.1976)(order awarding attorneys fees, but postponing determination of amount, is not final).

Accordingly, this appeal is DISMISSED without prejudice.