

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

KATHY A. STEVENS,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D09-1990

BANK OF AMERICA, N. A.,

Appellee.

Opinion filed May 26, 2010.

An appeal from the Circuit Court for Duval County.
Peter J. Fryefield, Judge.

Kathy A. Stevens, pro se, Appellant.

Cindy Runyan of Florida Default Law Group, P.L., Tampa, for Appellee.

PER CURIAM.

Appellant seeks review of an order granting summary judgment in favor of Appellee. However, the order on appeal did not address Appellant's counterclaims. On April 21, 2010, this Court issued an order directing Appellant

to show cause why this appeal should not be dismissed due to the pending counterclaims. Appellant failed to respond to this Court's order. Based on the record, this Court has determined that Appellant has prematurely filed the notice of appeal. Because the counterclaims are not separate and distinct from the claims disposed of on summary judgment, the order under review is not appealable as a partial final judgment. Jensen v. Whetstine, 985 So. 2d 1218, 1220 (Fla. 1st DCA 2008); Dempsey v. Russell, 966 So. 2d 1021, 1022 (Fla. 1st DCA 2007). Accordingly, we DISMISS this appeal for lack of jurisdiction.

DAVIS, CLARK, and WETHERELL, JJ., CONCUR.