

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-2403**

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LACRECIA LEGG, as Administratrix of the Estate  
of Mark Sutphin Hanna; MARK SUTPHIN HANNA,

Plaintiffs - Appellants,

versus

KLLM, INCORPORATED, a Texas corporation;  
GUSTAVO JIMENEZ, d/b/a Southwest Freightlines,  
a Texas corporation; KEITH JAMES PIERCE, an  
individual; MANUEL HERNANDEZ MEDRANO, an  
individual,

Defendants - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Charleston. Robert C. Chambers,  
District Judge. (CA-05-540)

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Submitted: October 11, 2006

Decided: November 6, 2006

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Before NIEMEYER, WILLIAMS, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Anne E. Shaffer, Charleston, West Virginia; Kimberly E. Williams,  
WHITEMAN BURDETTE, P.L.L.C., Charleston, West Virginia, for  
Appellants. Thomas V. Flaherty, Jaclyn A. Bryk, FLAHERTY,  
SENSABAUGH & BONASSO, P.L.L.C., Charleston, West Virginia; Neva G.  
Lusk, Jill C. Bentz, SPILMAN, THOMAS & BATTLE, P.L.L.C.,  
Charleston, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

LaCrecia Legg, as personal representative of the estate of Mark Sutphin Hanna, appeals the district court's partial judgment order in favor of KLLM, Inc., and Keith James Pierce in this wrongful death action. The district court ordered that judgment should be entered without delay.\* See Fed. R. Civ. P. 54(b). Although neither Legg, KLLM, nor Pierce has challenged the district court's apparent certification of this appeal under Rule 54(b), we must consider sua sponte the issue of whether the court's entry of final judgment was warranted because it involves the scope of our jurisdiction. See Snowden v. CheckPoint Check Cashing, 290 F.3d 631, 635 (4th Cir. 2002) ("[W]hen our appellate jurisdiction is in doubt, we must sua sponte raise and address the matter."). We dismiss the appeal for lack of jurisdiction.

Certification pursuant to Rule 54(b) is disfavored in this circuit. Braswell Shipyards, Inc. v. Beazer East, Inc., 2 F.3d 1331, 1335 (4th Cir. 1993). In certifying an appeal, the district court must determine "whether there is no just reason for the delay in the entry of judgment." Id. Although we have set forth factors a court should consider in making such determination, id. at 1335-36, the district court did not address any of those factors in its order. "The expression of clear and cogent findings

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\*Legg's action against the remaining defendants has been stayed by the district court pending resolution of this appeal.

of fact is crucial" for appellate review of the court's certification decision. Id. at 1336.

Because the district court did not set forth its rationale in ordering that judgment against KLLM and Pierce be entered without delay, we dismiss the appeal for lack of jurisdiction. See id. at 1335-36; see also Curtiss-Wright Corp. v. Gen. Elec. Corp., 446 U.S. 1, 10 (1980). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED