

Todd A. Hammer  
Marcel A. Quinn  
HAMMER, QUINN & SHAW PLLC  
100 Financial Drive, Suite 100  
P.O. Box 7310  
Kalispell, MT 59904-0310  
Telephone: (406) 755-2225  
Facsimile: (406) 755-5155  
[toddhammer@attorneysmontana.com](mailto:toddhammer@attorneysmontana.com)  
[marcelquinn@attorneysmontana.com](mailto:marcelquinn@attorneysmontana.com)

*Attorneys for Defendants Michael Rettig and Chubb Group of Insurance  
Companies*

IN THE SUPREME COURT OF THE STATE OF MONTANA

PATRICIA AIKEN,

Plaintiffs and Appellant,

vs.

CHUBB GROUP OF INSURANCE  
COMPANIES and MICHAEL RETTIG,  
SENIOR CLAIMS DIRECTORS,

Defendants and Appellees.

Supreme Court DA 21-0469

MOTION TO DISMISS APPEAL  
AND SUPPORTING  
MEMORANDUM

Come now Defendants Chubb Group of Insurance Companies and Michael Rettig and respectfully moves this Court to dismiss the appeal of this matter on the grounds and for the reasons it involves an interlocutory order of the District Court, a copy of which is attached as Exhibit A, which has not been certified as required for purposes of appeal. In her Notice of Appeal, Appellant has correctly noted this

interlocutory order has not been certified for purposes of appeal pursuant to M.R.Civ.P. 54(b). (See Ex. B attached). As this Court has stated,

“ . . . the trial court did not certify the summary judgment as final, under Rule 54(b), M.R.Civ.P. This case is not ripe for appellate review since the order of summary judgment is interlocutory; therefore, this appeal must be dismissed without prejudice under Rule 1, M.R.App.Civ.P.

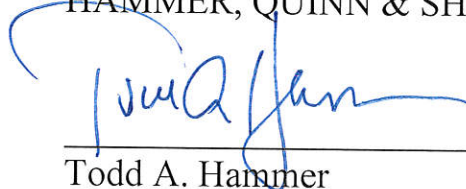
As we noted in *Roy v. Neibauer* (1980), 188 Mont. 81, 610 P.2d 1185, we have previously dismissed appeals for failure to comply with Rule 54(b), M.R.Civ.P. See for example, *Krusemark v. Hansen* (1979), 186 Mont. 174, 597 P.2d 48; *Knoepke v. Southwestern Ry. Co.* (1979), 182 Mont. 74, 595 P.2d 376; *In Re Marriage of Adams* (1979), 185 Mont. 63, 598 P.2d 197.

*Knight & Co. v. Fort Belknap Indian Agency* (1980), 188 Mont. 218, 220-21, 612 P.2d 1290, 1291-92.

Here, as in *Daniels v. Gallatin Cty*, 2021 Mont. LEXIS 212, at \*4, Plaintiff is attempting to appeal an interlocutory order without M. R. Civ. P. 54(b) certification. As such, the Order is not properly before this Court on appeal, and the appeal should be properly dismissed. Appellant has been contacted and objects to this motion.

Dated this 17<sup>th</sup> day of September, 2021.

HAMMER, QUINN & SHAW PLLC



Todd A. Hammer

Marcel A. Quinn

*Attorneys for Defendants Michael Rettig and  
Chubb Group of Insurance Companies*

**CERTIFICATE OF SERVICE**

I, Todd A. Hammer, hereby certify that on the 17<sup>th</sup> day of September, 2021, a true and accurate copy of the foregoing was duly served upon the following counsel of record as indicated below, either in person or at the address set forth below:

Patricia Aiken  
1750 Keg Road  
HC 62- Box 169  
Eureka, NV 89316

☒ U.S. Mail, first class postage prepaid  
☐ Overnight Mail  
☐ Hand Delivery  
☐ Facsimile  
☐ E-Mail

  
\_\_\_\_\_  
Todd A. Hammer

## **CERTIFICATE OF SERVICE**

I, Todd A. Hammer, hereby certify that I have served true and accurate copies of the foregoing Motion - Opposed to the following on 09-17-2021:

Patricia Aiken (Appellant)  
HC 62 - Box 169  
Eureka NV 89316  
Service Method: Conventional

Electronically signed by Chelsea Chambers on behalf of Todd A. Hammer  
Dated: 09-17-2021