

IN THE UNITED STATES DISTRICT COURT 22 APR 02 AM 10:17  
DISTRICT OF UTAH - CENTRAL DIVISION DISTRICT OF UTAH

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

vs.

SBARRO'S ITALIAN EATERY and TRI-  
SPUR INVESTMENTS, INC.,

Defendants.

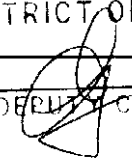
CRYSTLE COLLINS,

Plaintiff in Intervention

vs.

TRI-SPUR INVESTMENT COMPANY,  
INC., *et. al.*

Defendants

BY:   
DEPUTY CLERK

**ORDER**

Case No. 2:00-CV-774B

Before the Court is plaintiff in intervention Crystle Collins' motion for entry of final judgment pursuant to Fed. R. Civ. P. 54(b). On March 7, 2002, the Court granted defendants Berkley Corporation, d.b.a. Sbarro's Italian Eatery ("Berkley") and Tri-Spur Investment L.L.C.'s ("the L.L.C.") motion to dismiss Collins' verified amended complaint in intervention. Collins claims against the other defendants in this case still remain. Collins argues that if she is forced to


172

wait until after trial of the remaining case to appeal the Court's dismissal of the above-mentioned defendants, any successful appeal would result in retrial of the entire case. Collins asserts that having to try the case twice would cause great hardship. Collins also contends that strategic reasons justify the granting of the present motion.

Defendants oppose the motion. Defendants correctly note that "trial courts should be reluctant to enter Rule 54(b) orders since the purpose of this rule is a limited one: to provide a recourse for litigants when dismissal of less than all their claims will create undue hardships." *Oklahoma Turnpike Auth. v. Bruner*, 259 F.3d 1236, 1242 (10<sup>th</sup> Cir. 2001). Defendants assert that Collins has made no showing of undue hardship or possible injustice necessary for certification under rule 54(b). Defendants further contend that any liability on the part of the dismissed defendants is contingent on a finding that the remaining defendants are liable for Collins' claims. Thus, defendants state that if no liability is found, then the claims against the dismissed defendants are moot. Finally, defendants contend that granting the present motion would further delay trial of the pending case, causing prejudice to the remaining defendants.

The Court finds defendants' arguments compelling. This is not a case where the hardship created by waiting to appeal the dismissal of Berkley and the L.L.C. creates undue hardship or prejudice justifying certification under rule 54(b). Further, the Court finds that such certification would prejudice defendants in delaying trial of the remaining case and therefore would not be in the interests of judicial economy. Accordingly, the Court DENIES Crystle Collins' motion for entry of final judgment pursuant to Fed. R. Civ. P. 54(b). IT IS SO ORDERED.

DATED this 18<sup>th</sup> day of April, 2002.

  
Dee Benson  
United States District Judge

United States District Court  
for the  
District of Utah  
April 22, 2002

\* \* CERTIFICATE OF SERVICE OF CLERK \* \*

Re: 2:00-cv-00774

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