

FORT PECK COURT OF APPEALS
ASSINIBOINE & SIOUX TRIBES
POPLAR, MONTANA

JEWEL PAYNE,) Appeal No. 548
)
Appellant, Cross-Petitioner,) **OPINION AND ORDER**
)
-vs.-)
)
KRISTOFER FOURSTAR,)
)
Appellee/Petitioner.)

Apearances:

Michelle E. Ereaux, , J.D., 452 High Lonesome Trail, Bozeman, Montana, for Appellee Kristofer Fourstar.
Terry L. Boyd, Advocate, Box 146, Brockton, Montana, for Appellant Jewel Payne.

A Petition for Review was filed by Appellant Jewel Payne on September 3, 2010. Appellee Kristofer Fourstar filed a response on October 27, 2010, opposing review.

Appellant Payne seeks review, under Rule 6 of the Appellate Rules of Civil Procedure, CCOJ, of a trial court action of August 19, 2010, reserving ruling on a Motion for Summary Judgment pending further evaluation of the children. Appellant Payne contends that the trial court's determination is a *de facto* denial of the Motion for Summary Judgment and thus a final Order within the meaning of Rule 6. In

response, Appellee Fourstar asserts that the trial court's action to reserve ruling on a Motion is not a reviewable "final order" of the trial court.

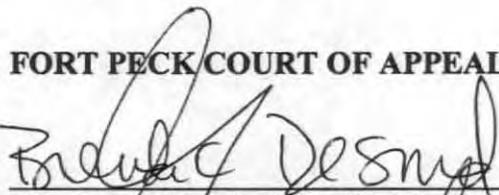
An unwritten determination to reserve ruling on a Motion for Summary Judgment is not a final order within the meaning of Rule 6, and thus not subject to appellate review at this stage of the proceeding. The duty of the Court of Appeals is to review trial court decisions for compliance with the applicable law. In the absence of a written Order, we cannot effectively carry out that duty.

Therefore, the Petition for Review is denied and the matter is remanded to the trial court for further proceedings. Appellee Fourstar's request concerning discovery in the trial court is not within the jurisdiction of the Court of Appeals and will not be addressed.

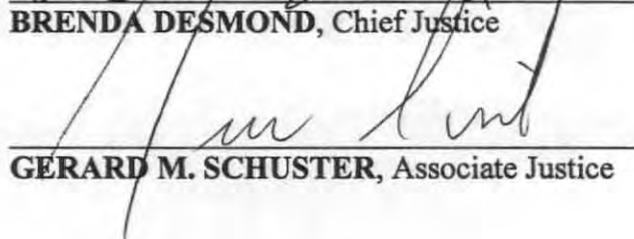
DATED this 23rd day of December, 2010.

FORT PECK COURT OF APPEALS

By:



BRENDA DESMOND, Chief Justice



GERARD M. SCHUSTER, Associate Justice