



SUPREME COURT OF GEORGIA

Case No. S17I0419

Atlanta, November 2, 2016

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

**ASPIRE AT WEST MIDTOWN APARTMENTS, L.P. v.
MARY MCBEE et al.**

On September 30, 2016, the trial court entered an order denying Aspire at West Midtown Apartments, L.P.'s motion to dismiss Thomas and Mary McBee's appeal of the trial court's July 5, 2016 summary judgment order in Aspire's favor. On October 6, the trial court issued a certificate of immediate review, and on October 17, Aspire filed an application for interlocutory appeal. See OCGA § 5-6-34 (b). However, the September 30 order denying Aspire's motion to dismiss the McBees' appeal was a final judgment, see OCGA § 5-6-34 (a) (1), so Aspire was not required to comply with the interlocutory appeal procedures. We therefore grant Aspire's application for interlocutory appeal. See Spivey v. Hembree, 268 Ga. App. 485, 486 & n.1 (2004) ("This Court will grant a timely application for interlocutory review if the order complained of is subject to direct appeal and the applicants have not otherwise filed a notice of appeal."). Accord Threatt v. Rogers, 269 Ga. App. 402, 403 (604 SE2d 269) (2004). See also OCGA § 5-6-35 (j). Aspire must file its notice of appeal in the trial court within ten days of the date shown above. See OCGA § 5-6-34 (b).

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk 's Office, Atlanta

I certify that the above is a true extract from the
Minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

Suzanne C. Fulton, Chief Deputy Clerk