Because the August 17th order did not dispose of all claims against all parties and because there was no Rule 54(b) certification, the August 17th order remains interlocutory and is not appealable. *See HBE Leasing Corp. v. Frank*, 48 F.3d 623, 632 (2d Cir. 1995) (holding that order that did not resolve all the claims in the action was interlocutory and was not appealable because there was no Rule 54(b) certification); *see also Martin-Trigona*, 763 F.2d at 139 (dismissing appeal for lack of jurisdiction where the defendant appealed from an order disposing of only a portion of the case and the district **[**8]** court had not certified the appeal pursuant to Rule 54(b)); *DeNubilo v. United States*, 343 F.2d 455 (2d Cir. 1965) (dismissing appeal for lack of jurisdiction where the plaintiffs appealed from an order denying their motion to amend their complaint and the district court had not certified the appeal pursuant to Rule 54(b)). [1]

1 We are not persuaded by the Plaintiffs' reliance on *Lockett v. General Finance Loan Co.*, 623 F.2d 1128 (5th Cir. 1980). *Lockett* held that an order denying leave to amend a complaint was final because the plaintiffs' action against a newly sought defendant would otherwise be time-barred. But in that case the district court did certify the appeal under Rule 54(b), *id.* at 1129, which the court below did not. We thus find *Lockett* inapposite, and otherwise decline to follow it.

The portion of the district court's August 17th order denying the Plaintiffs' motion to amend their complaint could not have been certified under Rule 54(b) in any event. [HN2] To be certified under **[**9]** Rule 54(b), an order must possess the "degree of finality required to meet the appealability requirements of 28 U.S.C. § 1291." *Acha v. Beame*, 570 F.2d 57, 62 (2d Cir. 1978). This degree of finality is "defined as a judgment 'which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" *Id.* (quoting *Catlin v. United States*, 324 U.S. 229, 233, 89 L. Ed. 911, 65 S. Ct. 631 (1945)). In the present case, the Plaintiffs appeal from only the portion of the district court's order denying their motion to amend their complaint. It is well-settled that [HN3] "an order denying leave to amend a complaint is not a 'final decision' within the meaning of 28 U.S.C. § 1291." *DeNubilo*, 343 F.2d at 456-57. Accordingly, the district court's denial of the Plaintiffs' motion to amend their complaint would not be certifiable pursuant to Rule 54(b).

Nor do we have jurisdiction to hear this appeal pursuant to § 1292(b), [2] since the district court did not utilize that provision to certify for immediate appeal its order denying the Plaintiffs' motion to amend the first amended complaint. *See D'Ippolito v. Cities Serv. Co.*, 374 F.2d 643, 648 (2d Cir. 1967) (holding that "no appeal **[**10]** lies from the order denying permission to amend [the complaint] in the absence of certification" under § 1292(b) or Rule 54(b)); *DeNubilo*, 343 F.2d at 456-57 (same).

2 Section 1292(b) provides in part:

> [HN4] When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order . . . .