

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

AQUARIUM SYSTEMS, INC.,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NOS. 2004-L-110 and 2004-L-111
OMEGA SEA MANUFACTURING CORP., et al.,	:	
Defendants-Appellants.	:	1/28/05

Civil appeal from the Lake County Common Pleas Court, Case No. 02 CV 002204.

Judgment: Appeal dismissed.

Mark A. Zicarelli, Gibson, Brelo, Zicarelli & Martello, 8353 Mentor Avenue, #2. Mentor, OH. 44060, *John Kenneth Felter*, Exchange Place, Boston, MA, 02109 (For Plaintiff-Appellee).

Shawn W. Maestle, *Jack S. Kluznik*, *Daniel A. Richards*, Weston, Hurd, Fallon, Paisley & Howley, L.L.P., 2500 Terminal Tower, 50 Public Square, Cleveland, OH 44113-2214 (For Omega Sea Manufacturing Corp. and Dennis Crews).

James S. Wertheim, McGlinchey Stafford, P.L.L.C., 25550 Chagrin Boulevard, #406. Cleveland, OH 44122-4640 (For Thomas Frakes).

WILLIAM M. O'NEILL, J.

{¶1} On July 2, 2004, appellants, Omega Sea Manufacturing Corp., Dennis Crews, and Thomas Frakes, filed a notice of appeal from a June 4, 2004 judgment of the Lake County Court of Common Pleas. In that judgment, the trial court granted a

permanent injunction in favor of appellee, Aquarium Systems, Inc., but delayed a ruling on attorney fees until a hearing was held. The hearing on attorney fees was initially scheduled for October 29, 2004, but has now been continued until August 26, 2005. The request for attorney fees was included as part of the original complaint.

{¶2} It is well established that when attorney fees are requested in the complaint, there is no final appealable order until those fees have been addressed by the trial court unless the court utilizes Civ.R.54(B) language. *Ft. Frye Teachers Assn. v. Bd. of Edn.* (1993), 87 Ohio App. 3d 840, 843; *Trail v. Trail* (Dec. 9,1994), 11th Dist. No 94-L-094, 1994 WL 1662554.

{¶3} In the case sub judice, the trial court has continued the hearing date for the attorney fees and did not use Civ. R. 54(B) language in its judgment entry. Accordingly, there is no final appealable order at this point in time. Hence, this court is without jurisdiction to hear these appeals.

{¶4} Appeals dismissed.

DONALD R. FORD, P.J.,

JUDITH A. CHRISTLEY J.,

concur.