

THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO

ALEA LONDON LIMITED,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- vs -	:	CASE NO. 2007-G-2803
SKEETER'S 19TH HOLE, INC., et al.,	:	
Defendants-Appellees.	:	

Civil Appeal from the Court of Common Pleas, Case No. 06 P 001208.

Judgment: Appeal dismissed.

Brian L. Wildermuth, Subashi, Wildermuth & Ballato, The Greene Town Center, 50 Chestnut Street, #230, Dayton, OH 45440 (For Plaintiff-Appellant).

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J. Michael Monteleone, Jeffries, Kube, Forrest & Monteleone Co., L.P.A., 1650 Midland Building, 101 Prospect Avenue, West, Cleveland, OH 44115 (For Defendant-Appellee, Ken Hopkins).

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CYNTHIA WESTCOTT RICE, P.J.,

{¶1} On September 27, 2007, appellant, Alea London Limited, filed a notice of appeal from the September 13, 2007 judgment entry of the Geauga County Court of Common Pleas.

{¶2} This case stems from a declaratory judgment action in the trial court brought by appellant. In the September 13, 2007 entry, the trial court overruled a motion for summary judgment filed by appellant.

{¶3} Section 3(B)(2), Article IV of the Ohio Constitution limits the jurisdiction of an appellate court to the review of final judgments of lower courts. In order for a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied. See *Alden v. Kovar*, 11th Dist. Nos. 2006-T-0050 and 2006-T-0051, 2006 WL 1816263, at ¶5, citing to *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, 88. Moreover, “[a]n order denying a motion for summary judgment is not a final appealable order.” *State ex rel. Overmeyer v. Walinski* (1966), 8 Ohio St.2d 23, 23. However, the denial of a motion for summary judgment is always reviewable on an appeal from a subsequent final judgment. *Alden*, supra, citing to *Sagenich v. Erie Ins. Group* (Dec. 12, 2003), 11th Dist. No. 2003-T-0144, 2003 WL 22952586, at ¶3.

{¶4} Generally, a trial court does not fulfill its function in a declaratory judgment action when it disposes of the issues by journalizing an entry merely sustaining or overruling a motion for summary judgment without setting forth any construction of the document under consideration. *Nickschinski v. Sentry Ins. Co.* (1993), 88 Ohio App.3d

185, 189. Here, appellant has attempted to appeal the denial of a motion for summary judgment. Therefore, we do not have a final order under R.C. 2505.02(B).

{¶5} Based upon the foregoing analysis, this appeal is dismissed due to lack of a final appealable order.

{¶6} Appeal dismissed.

COLLEEN MARY O'TOOLE, J.

TIMOTHY P. CANNON, J.,

concur.