

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO**

DEUTSCHE BANK NATIONAL TRUST	:	MEMORANDUM OPINION
COMPANY, AS TRUSTEE FOR		
AMERIQUEST MORTGAGE SECURITIES	:	
INC., ASSET-BACKED PASS-THROUGH		CASE NO. 2012-A-0022
CERTIFICATES, SERIES ARSI 2006-M3,	:	
Plaintiff-Appellee,	:	
- vs -	:	
ELAINE V. BAKER, a.k.a. ELAINE	:	
BAKER, et al.,		
	:	
Defendants/Third Party		
Plaintiffs-Appellants,	:	
- vs -	:	
AMERIQUEST MORTGAGE CO., et al.,	:	
Third Party Defendants-	:	
Appellees.		

Civil Appeal from the Court of Common Pleas, Case No. 2011 CV 40.

Judgment: Appeal dismissed.

Darryl E. Gormley and Peter L. Mehler, Reimer, Arnovitz, Cherek & Jeffrey Co., L.P.A.,
2450 Edison Boulevard, P.O. Box 968, Twinsburg, OH 44087 (For Plaintiff-Appellee).

David N. Patterson, 33579 Euclid Avenue, Willoughby, OH 44094-3199 (For
Defendants/Third Party Plaintiffs-Appellants).

Kara A. Czanik, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, OH 45202 (For
Third Party Defendants-Appellees, Ameriquest Mortgage Co. and Ameriquest Mortgage
Securities, Inc.).

Brittany L. Griggs, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, OH 45202
(For Third Party Defendant-Appellee, Citi Residential Lending, Inc.)

CYNTHIA WESTCOTT RICE, J.

{¶1} On June 12, 2012, appellants, Elaine V. Baker and Robert Baker, filed a notice of appeal from a May 14, 2012 entry of the Ashtabula County Court of Common Pleas. In that entry, the trial court dismissed the third party complaint against appellees, Ameriquest and Citi Residential Lending, Inc. The trial court also ordered that the motion to dismiss filed by appellee, Deutsche Bank National Trust Company, as trustee for Ameriquest Mortgage Securities Inc., asset-backed pass-through certificates series ARSI 2006-M3, be granted and that appellants' counterclaim be dismissed.

{¶2} Civ.R. 54(B) provides that:

{¶3} "When more than one claim for relief is presented in an action whether as a claim, counterclaim, cross-claim, or third-party claim, and whether arising out of the same or separate transactions, or when multiple parties are involved, the court may enter final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay. In the absence of a determination that there is no just reason for delay, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties, shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties."

{¶4} This court has stated that where there are multiple claims and/or parties involved, an entry that enters final judgment as to one or more but fewer than all of the claims is not a final appealable order in the absence of Civ.R. 54(B) language stating that “there is no just reason for delay[.]” *Montello v. Ackerman*, 11th Dist. No. 2009-L-111, 2009-Ohio-6383, at ¶6. See, also, *Kessler v. Totus Tuus, L.L.C.*, 11th Dist. No. 2007-A-0028, 2007-Ohio-3019, at ¶7.

{¶5} In the case at hand, it is clear from a review of the record that while the trial court dismissed appellants’ counterclaim and third party complaint, the action in foreclosure still remains pending. Furthermore, the May 14, 2012 judgment entry that was appealed from does not contain any Civ.R. 54(B) language. Without the inclusion of Civ.R. 54(B) language, there is no final appealable order at this time.

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

{¶7} Appeal dismissed.

DIANE V. GRENDALL, J.,

MARY JANE TRAPP, J.,

concur.