

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

COREY O'STRICKER,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- vs -	:	CASE NO. 2012-P-0104
ROBINSON MEMORIAL HOSPITAL	:	
FOUNDATION, et al.,	:	
Defendants-Appellees.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2011 CV 01405.

Judgment: Appeal dismissed.

Robert J. Sawyer, 815 Superior Avenue East, Suite 300, Cleveland, OH 44114-2746
(For Plaintiff-Appellant).

Jeffrey E. Schobert and Juliana S. Gall, Hanna, Campbell & Powell, L.L.P., 3737
Embassy Parkway, Suite 100, P.O. Box 5521, Akron, OH 44334 (For Defendants-
Appellees).

TIMOTHY P. CANNON, P.J.

{¶1} Appellant, Corey O'Stricker, appeals from the July 30, 2012 judgment of the Portage County Court of Common Pleas, granting appellees', Michael L. Pryce, M.D. and Stow-Kent Orthopedics, Inc., motion to dismiss appellant's complaint for failure to provide an affidavit in compliance with Civ.R. 10(D)(2).

{¶2} On October 15, 2012, appellees filed a motion to dismiss the appeal for lack of a final, appealable order since the trial court only disposed of two of the four

parties in the underlying action, and there has been no Civ.R. 54(B) determination, “there is no just reason for delay.”

{¶3} Civ.R. 54(B) states:

{¶4} 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.

{¶5} This court has held 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, ¶6. See also *Kessler v. Totus Tuus, L.L.C.*, 11th Dist. No. 2007-A-0028, 2007-Ohio-3019, ¶7.

{¶6} Here, while the trial court granted appellees' motion to dismiss, it is clear that there are claims still pending in the trial court against Robinson Memorial Hospital Foundation and Ohio Conference of Plasters & Cement Masons Health & Welfare Fund. Also, the counterclaims and cross-claims filed by Ohio Conference of Plasters & Cement Masons Health & Welfare Fund are still pending in the trial court. Furthermore, the July 30, 2012 appealed entry does not contain any Civ.R. 54(B) language. Thus, without the inclusion of Civ.R. 54(B) language, there is no final, appealable order at this time.

{¶7} Based upon the foregoing analysis, appellees' motion to dismiss is granted, and this appeal is hereby dismissed due to lack of a final, appealable order.

{¶8} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,
THOMAS R. WRIGHT, J.,
concur.