

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

SAFEAIR CONTRACTORS, INC.,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- VS -	:	CASE NO. 2014-L-128
ALABASI CONSTRUCTION, INC.,	:	
Defendant,	:	
LAKE COUNTY METROPOLITAN	:	
HOUSING AUTHORITY,	:	
Defendant-Appellee.	:	

Civil Appeal from the Lake County Court of Common Pleas, Case No. 13 CV 002540.

Judgment: Appeal dismissed.

Mark A. Ziccarelli, Ziccarelli & Martello, 8754 Mentor Avenue, Mentor, OH 44060 (For Plaintiff-Appellant).

Richard A. Hennig, Hennig, Szeman & Klammer Co., L.P.A., 10 West Erie Street, Suite 106, Painesville, OH 44077 (For Defendant-Appellee).

CYNTHIA WESTCOTT RICE, J.

{¶1} On December 18, 2014, appellant, Safeair Contractors, Inc., by and through counsel of record, Mark Ziccarelli, filed a notice of appeal from a November 19, 2014 judgment entry of the Lake County Court of Common Pleas.

{¶2} A review of the record in this matter reveals that on November 25, 2013, appellant filed a complaint against defendant, Alabasi Construction, Inc., and defendant-

appellee, Lake County Metropolitan Housing Authority. Appellee filed its answer on December 27, 2013. Alabasi filed an answer to the complaint along with a cross-claim. Alabasi then dismissed its cross claim. Appellee filed a motion for summary judgment on September 16, 2014. Appellant filed a response to the motion for summary judgment on October 10, 2014. In the November 19, 2014 entry, the trial court granted appellee's motion for summary judgment against appellant's complaint. This appeal followed.

{¶3} Initially, we must determine whether there is a final, appealable order, as this court may entertain only those appeals from final judgments or orders. *Noble v. Colwell*, 44 Ohio St.3d 92, 96 (1989). According to Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it constitutes a "final order" in the action. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. If a lower court's order is not final, then an appellate court does not have jurisdiction to review the matter, and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20 (1989). For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02 and if applicable, Civ.R. 54(B). See *Childrens Hosp. Med. Ctr. v. Tomaiko*, 11th Dist. No. 2011-P-0103, 2011-Ohio-6838, ¶3.

{¶4} Civ.R. 54(B) provides the following:

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 repeatedly held that where there are multiple claims and/or parties involved, an order entering final judgment as to one or more but fewer than all of the claims or parties is not a final, appealable order in the absence of Civ.R. 54(B) language stating that “there is no just reason for delay[.]” *Meffe v. Griffin*, 11th Dist. No. 2012-T-0032, 2012-Ohio-3642, ¶11. See also *Elia v. Fisherman’s Cove*, 11th Dist. No. 2010-T-0036, 2010-Ohio-2522, ¶6.

{¶6} In the case at hand, the trial court granted appellee’s summary judgment as to appellant. However, it appears as though appellant’s claims against Alabasi have not been disposed of by the trial court. Thus, there are still claims pending against the remaining defendant. Furthermore, without the inclusion of the Civ.R. 54(B) language, that there is no just reason for delay, no final order exists at this time.

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

{¶8} Appeal dismissed.

THOMAS R. WRIGHT, J.,

COLLEEN MARY O’TOOLE, J.,

concur.