

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

TERESA JONES, et al.,	:	MEMORANDUM OPINION
Plaintiffs-Appellants/ Cross-Appellees,	:	CASE NO. 2015-P-0070
- VS -	:	
NATURAL ESSENTIALS, INC.,	:	
Defendant-Appellee/ Cross-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2014 CV 00215.

Judgment: Appeal and Cross-Appeal dismissed.

Natalie F. Grubb and Mark E. Owens, Grubb & Associates, L.P.A., 437 West Lafayette Road, Suite 260-A, Medina, OH 44256 (For Plaintiffs-Appellants/Cross-Appellees).

Todd H. Lebowitz, Baker & Hostetler, PNC Center, 1900 East Ninth Street, Suite 3200, Cleveland, OH 44114-3485 (For Defendant-Appellee/Cross-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} Appellants/cross-appellees, Teresa Jones, Kevin Jones and Rob Lovejoy, by and through counsel of record, filed a notice of appeal on September 29, 2015, from an August 31, 2015 entry, in which the Portage County Court of Common Pleas adopted the magistrate's decision and ordered appellants/cross-appellees and their attorney to pay fees for the court reporter, videographer and room rental, as well as pay

appellee/cross-appellant, Natural Essentials, Inc., and its counsel \$10,000 pursuant to R.C. 2323.51 and Civ.R. 11. Appellee/cross-appellant filed a cross-appeal on October 6, 2015.

{¶2} The trial court record reveals that after the August 31, 2015 entry adopting the magistrate's decision was issued, appellants/cross-appellees filed a request for findings of fact and conclusions of law as well as objections to the magistrate's decision. Appellee/cross-appellant filed cross-objections to the magistrate's decision. All of which remain pending in the trial court.

{¶3} Initially, we must determine whether there is a final appealable order since 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. Lake 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 *Children's Hosp. Med. Ctr. v. Tomaiko*, 11th Dist. Portage No. 2011-P-0103, 2011-Ohio-6838, ¶ 3.

{¶4} Pursuant to R.C. 2505.02(B), there are seven categories of a "final order," and if the judgment of the trial court satisfies any of them, it will be deemed a "final order" and can be immediately appealed and reviewed by a court of appeals.

{¶5} Pursuant to Civ.R. 53(D)(4), one of three scenarios occurs after a magistrate's decision is issued: (1) absent objections, the court may adopt the magistrate's decision if there are no errors of law or other defects on its face; (2) if objections are filed, the court may consider the objections and either adopt, reject, or modify the decision, hear additional evidence, recommit the matter to the magistrate, or hear the matter; or (3) the court may immediately adopt the decision and enter judgment without waiting for objections, but the filing of timely objections automatically stays execution of the judgment until the court disposes of the objections and vacates, modifies or adheres to the judgment already entered. See *Wheeler v. Tubbs*, 11th Dist. Lake No. 2008-L-159, 2008-Ohio-6411, at ¶ 5. Furthermore, a magistrate's decision remains interlocutory, even if adopted by the court, unless and until the court enters a final order that determines all the claims for relief in the action or determines that there is no just reason for delay. *Id.*

{¶6} In the instant matter, the trial court adopted the magistrate's decision on the same day it was entered, August 31, 2015. Thereafter, both parties filed objections to the magistrate's decision. The trial court has failed to enter judgment stating the relief to be afforded. At this point, there is no order issued by the trial court that fits within any of the categories of R.C. 2505.02. Since the objections were filed, the judgment of the trial court is automatically stayed until the court disposes of the objections and vacates, modifies or adheres to the judgment already entered. The August 31, 2015 entry is interlocutory and thus, this court does not have jurisdiction to hear this appeal. This case must be returned to the trial court.

{¶7} Appellants/cross-appellees will have a meaningful and effective remedy by

way of an appeal once a final judgment is reached as to all claims and parties when the case is decided and/or dismissed. *Tomaiko, supra*, at ¶ 5. This court will not have jurisdiction until a final appealable order is issued.

{¶8} Accordingly, this appeal and cross-appeal are hereby dismissed, sua sponte, due to lack of jurisdiction.

{¶9} Appeal and cross-appeal dismissed.

TIMOTHY P. CANNON, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.