

**COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT**

<b>MARCIA OYLER</b>	:	<b>JUDGES:</b>
	:	<b>Hon. Julie A. Edwards, P.J.</b>
	:	<b>Hon. William B. Hoffman, J.</b>
	:	<b>Hon. Sheila G. Farmer, J.</b>
<b>Plaintiff-Appellee</b>	:	
	:	
<b>-vs-</b>	:	<b>Case No. 01CA00059</b>
	:	
<b>PALM HARBOR HOMES, INC., ET AL.</b>	:	
	:	<b><u>O P I N I O N</u></b>
<b>Defendant-Appellant</b>	:	

**CHARACTER OF PROCEEDING:** **Appeal from the Licking County Court of  
Common Pleas, Case No. 01CV160**

**JUDGMENT:** **Dismissed**

**DATE OF JUDGMENT ENTRY:** **October 9, 2001**

**APPEARANCES:**

**For Plaintiff-Appellee**

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**For Defendant-Appellant**

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P.O. Box 750726  
Dayton, Ohio 45459**

[Cite as *Oyler v. Palm Harbor Homes, Inc.*, 2001-Ohio-1565]

[Cite as *Oyler v. Palm Harbor Homes, Inc.*, 2001-Ohio-1565]  
*Hoffman, J.*

Defendant-appellant Palm Harbor Homes, Inc., appeals the April 16, 2001 and the May 11, 2001 Judgment Entries of the Licking County Court of Common Pleas which denied its Motion to Stay Proceedings pending arbitration and denied reconsideration thereof, respectively. Plaintiff-appellee is Marcia Oyler.

#### STATEMENT OF THE FACTS AND CASE

On February 26, 2001, appellee filed her seven count complaint against appellant and others resulting from a purchase contract between the parties for the construction of a home. Appellant filed its answer to the complaint and later filed a Motion for Stay of Proceedings pending arbitration. On April 16, 2001, the trial court denied appellant's motion.

Appellant filed a motion requesting the trial court to reconsider its decision denying its request to stay proceedings pending arbitration. The trial court denied reconsideration via Judgment Entry filed May 11, 2001. It is from the April 16, 2001, and May 11, 2001 Judgment Entries appellant prosecutes this appeal, assigning as error:

**THE TRIAL COURT'S ORDER DENYING PALM HARBORS  
HOMES, INC'S MOTION FOR AN ORDER COMPELLING  
ARBITRATION AND STAYING PROCEEDINGS PENDING  
ARBITRATION WERE CONTRARY TO LAW.**

R.C. 2711.02 provides, in pertinent part:

An order under this section that grants or denies a stay of  
a trial of any action pending arbitration . . . , is a final order

\* \* \*

Applying R.C. 2711.02 , the trial court's April 16, 2001 Judgment Entry constituted a final appealable order.

The Civil Rules do not provide for motions for reconsideration, therefore, such

motions are considered a nullity.<sup>1</sup> More importantly, a motion for reconsideration does not extend the time period in which an appeal may be prosecuted pursuant to App. R. 4.<sup>2</sup> Appellant filed its notice of appeal on May 30, 2001. Because the notice of appeal was filed more than thirty days after the trial court's entry of a final appealable order on April 16, 2001, this court is without jurisdiction to determine the merits of appellant's appeal. Accordingly, appellant's appeal is dismissed.

By: Hoffman, J.

Edwards, P.J. and

Farmer, J. concur

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JUDGES

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<sup>1</sup> *Pitts v. Dept. of Transportation* (1981), 67 Ohio St.2d 378.

<sup>2</sup> *Kauder v. Kauder* (1974), 38 Ohio St.2d 265, 267.

[Cite as *Oyler v. Palm Harbor Homes, Inc.*, 2001-Ohio-1565]

**IN THE COURT OF APPEALS FOR LICKING COUNTY, OHIO**

**FIFTH APPELLATE DISTRICT**

**MARCIA OYLER**

**Plaintiff-Appellee**

**-vs-**

**PALM HARBOR HOMES, INC., ET AL.**

**Defendant-Appellant**

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**JUDGMENT ENTRY**

**CASE NO. 01CA00059**

**For the reason stated in our accompanying Memorandum-Opinion, this appeal  
is ordered dismissed. Costs assessed to appellant.**

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**JUDGES**