

[Cite as *Benkosky v. Jarosick*, 2004-Ohio-5026.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 84097

DEBRA BENKOSKY, et al.

:

:

Plaintiffs-Appellees :

:

JOURNAL ENTRY

:

vs.

:

and

:

:

OPINION

SUSAN G. JAROSICK, et al.:

:

Defendants-Appellants :

:

DATE OF ANNOUNCEMENT  
OF DECISION:

September 23, 2004

CHARACTER OF PROCEEDING:

Civil appeal from  
Common Pleas Court  
Case No. CV-390758

JUDGMENT:

DISMISSED

DATE OF JOURNALIZATION:

\_\_\_\_\_

APPEARANCES:

For Plaintiffs-Appellees:

MICHAEL W. CZACK

AARON P. BERG  
Caravona & Czack, P.L.L.  
1900 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113

For Defendant-Appellant  
National Union Fire Insurance

MICHAEL L. CLOSE  
DALE D. COOK

Company:

Wiles, Boyle, Burkholder &  
Bringardner Co., LPA  
300 Spruce Street, Floor One  
Columbus, Ohio 43215

MATTHEW J. GRIMM  
STEVEN G. JANIK  
KATHLEEN A. NITSCHKE  
Janik & Dorman, LLP  
9200 South Hills Boulevard  
Suite 300  
Cleveland, Ohio 44147-3521

ANTHONY O. CALABRESE, JR., J.:

{¶ 1} Having reviewed the record, we find that the trial court's order of September 7, 2003 was not a final appealable order, as the issue of damages was left unresolved. *State ex rel. White v. Cuyahoga Metro. Hous. Auth.* (1997), 79 Ohio St.3d 543; *Bautista v. Kolis* (2001), 142 Ohio App.3d 169. In turn, the trial court's order denying appellant's motion for relief from judgment is also not a final appealable order. *Vanest v. Pillsbury Co.* (1997), 124 Ohio App.3d 525, 532. Therefore, we are without jurisdiction to hear this appeal. Section 3(B)(2), Article IV of the Ohio Constitution; see, also, R.C. 2501.02. For those reasons, appellees' motion to dismiss is granted.

{¶ 2} Appeal dismissed.

It is ordered that appellees recover of appellant costs herein taxed.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

---

ANTHONY O. CALABRESE, JR.

FRANK D. CELEBREZZE, JR., P.J., and

DIANE KARPINSKI, J., CONCUR.

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also S.Ct.Prac.R. II, Section 2(A)(1).