

[Cite as *Berry v. Javitch, Block, Eisen & Rathbone*, 2006-Ohio-1742.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 87103

ROBERT BERRY, ET AL.	:	
	:	ACCELERATED DOCKET
Plaintiffs-Appellants	:	
	:	JOURNAL ENTRY
-vs-	:	
	:	AND
JAVITCH, BLOCK, EISEN &	:	
RATHBONE, ET AL.	:	OPINION
	:	
Defendant-Appellee	:	

Date of Announcement	
of Decision:	APRIL 6, 2006

Character of Proceeding:	Civil appeal from
	Court of Common Pleas
	Case No. CV-409418

Judgment:	Reversed and remanded.
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Date of Journalization:

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JAMES J. SWEENEY, P.J.:

{¶ 1} This appeal is before the Court on the accelerated docket pursuant to App.R. 11.1 and Loc. App.R. 11.1.

{¶ 2} Plaintiffs-appellants, Robert and Diane Berry ("plaintiffs"), appeal from the trial court's ruling that their petition under R.C. 3929.06 was moot for lack of jurisdiction. No appellee brief was filed. Upon review, we reverse and remand.

{¶ 3} Plaintiffs assert one assignment of error for our review, which states:

{¶ 4} "I. The trial court erred, as a matter of law, in ruling that the court 'no longer retains jurisdiction of the matter' and ruling all pending motions to be moot."

{¶ 5} The record reflects a consent judgment was entered in favor of plaintiffs on April 1, 2002. (R. 96). Plaintiffs subsequently filed a supplemental petition pursuant to R.C. 3929.06. That statute provides, in relevant part:

{¶ 6} "(2) If, within thirty days after the entry of the final judgment referred to in division (A)(1) of this section, the insurer that issued the policy of liability insurance has not paid the judgment creditor an amount equal to the remaining limit of liability coverage provided in that policy, the judgment creditor may file in the court that entered the final judgment a supplemental complaint against the insurer seeking the entry of a judgment ordering the insurer to pay the judgment creditor the requisite amount. Subject to division (C) of this section, the civil action based on the supplemental complaint shall proceed against the insurer in the same manner as the original civil action against the judgment debtor."

{¶ 7} A consent judgment qualifies as a final judgment within the meaning of R.C. 3929.06(A)(1). E.g., *Bosak v. H & R Mason Contrs., Inc.*, Cuyahoga App. No. 86237, 2005-Ohio-6732.

Accordingly, the law conveyed jurisdiction upon the trial court over plaintiffs' petition filed pursuant to 3929.06(A)(2).

{¶ 8} Plaintiffs' sole assignment of error is sustained and the matter is reversed and remanded for further proceedings consistent with this opinion.

Judgment reversed and remanded.

It is ordered that appellants recover of appellee their costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Court of Common Pleas to carry this judgment into execution.

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

SEAN C. GALLAGHER, J., and
CHRISTINE T. McMONAGLE, J., CONCUR.

JAMES J. SWEENEY
PRESIDING JUDGE

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. 112, Section 2(A)(1).