

[Cite as *WM Specialty Mtge., L.L.C. v. Unknown Heirs, Executors, Administrators, Creditors, & Assigns of Estate of Familo*, 2010-Ohio-3732.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94249

WM SPECIALTY MORTGAGE, LLC

PLAINTIFF-APPELLEE

vs.

**THE UNKNOWN HEIRS, EXECUTORS,
ADMINISTRATORS, CREDITORS AND
ASSIGNS OF THE ESTATE OF EDWARD D.
FAMILO, ET AL.**

DEFENDANTS-APPELLANTS

**JUDGMENT:
DISMISSED**

Civil Appeal from the
Cuyahoga County Common Pleas Court
Case No. CV-644045

BEFORE: Sweeney, J., Rocco, P.J., and Blackmon, J.

RELEASED AND JOURNALIZED: August 12, 2010
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JAMES J. SWEENEY, J.:

{¶ 1} Sua sponte, this appeal is dismissed for lack of a final appealable order. WM Specialty Mortgage, LLC commenced the instant action seeking foreclosure and a declaratory judgment. Although the trial court granted WM Speciality's motion for partial summary judgment concerning its priority as a lienholder, the partial summary judgment appealed from does not order foreclosure and sale of the subject property, it does not find any amounts due to various claimants, nor does it declare any rights. Instead, the judgment directs the magistrate to issue a "decision making specific findings as to the rights and liabilities of the parties." Because the order before this Court on appeal does not direct the foreclosure sale or find the amounts due to various claimants, it is not a final appealable order. See *Oberlin Sav. Bank Co. v. Fairchild* (1963), 175 Ohio St. 311, 194 N.E.2d 580. This appeal is hereby dismissed.

It is ordered that appellee recover from appellant its costs herein taxed.

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.

JAMES J. SWEENEY, JUDGE

KENNETH A. ROCCO, P.J., and
PATRICIA A. BLACKMON, J., CONCUR