

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY**

ROGER BAHNER,

Plaintiff-Appellant,

- vs -

THE MARKETPLACE MALL, LLC, et al.,

Defendants-Appellees.

CASE NO. 2024-G-0009

Civil Appeal from the
Chardon Municipal Court

Trial Court No. 2022 CVH 00800

**MEMORANDUM
OPINION**

Decided: April 15, 2024
Judgment: Appeal dismissed

Roger Bahner, pro se, 7215 South Jester Place, Concord, OH 44077 (Plaintiff-Appellant).

Robert A. Molnar, Oberholtzer & Molnar, LPA, 39 Public Square, Suite 201, Medina, OH 44256 (For Defendants-Appellees).

JOHN J. EKLUND, J.

{¶1} Appellant, Roger Bahner, filed a pro se appeal from a January 25, 2024 order, in which a magistrate from the Chardon Municipal Court converted a scheduled trial to a damages hearing on a motion for sanctions filed by appellees, The Marketplace Mall, LLC and Maureen Foldesi, against appellant.

{¶2} 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). Under 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).

{¶3} R.C. 2505.02(B) defines a “final order” and sets forth seven categories of appealable judgment, 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. Here, the July 18, 2022 order on appeal does not fit within any of the categories for being a final order pursuant to R.C. 2505.02(B) and did not dispose of all the claims.

{¶4} The docket reveals that appellant’s complaint against appellees was dismissed by the trial court on March 21, 2023 for failure to state a claim, and appellees voluntarily dismissed their counterclaim on December 11, 2023. The matter of sanctions remains pending for the trial court to conduct its hearing and issue a ruling, which has yet to be done.

{¶5} Generally, “* * * a magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party.” See Civ.R. 53(D)(2)(a)(i). This court has stated that even though a magistrate’s order is effective without judicial approval, it is not “directly appealable.” *Perkins v. Perkins*, 11th Dist. Geauga No. 2022-G-0029, 2022-Ohio-3116, ¶ 4. Therefore, a magistrate’s order is simply interlocutory by nature. *Id.*

{¶6} In this case, the January 25, 2024 magistrate’s order is not a final appealable order, and this court does not have jurisdiction to hear this appeal. The order

is interlocutory. Nothing is preventing appellant from obtaining effective relief through an appeal once the trial court has entered a final judgment in the action.

{¶7} Based upon the foregoing analysis, the order of the trial court is not a final appealable order. Accordingly, the instant appeal is dismissed for lack of jurisdiction.

EUGENE A. LUCCI, P.J.,

ROBERT J. PATTON, J.,

concur.