

[Cite as *Kowars v. Yount*, 2004-Ohio-1741.]

COURT OF APPEALS
DELAWARE COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KEVIN KOWARS, ET AL

Plaintiffs-Appellees

-vs-

STEPHAN A. YOUNT, ET AL

Defendants-Appellants

JUDGES:

: Hon: W. Scott Gwin, P.J.

: Hon: Sheila G. Farmer, J.

: Hon: Julie A. Edwards, J.

:

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: Case No. 03-CA-E-09-045

:

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: OPINION

CHARACTER OF PROCEEDING: Civil appeal from the Delaware County
Court of Common Pleas, Case No. 01-
CVC-05-27

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: April 2, 2004

APPEARANCES:

For Plaintiff-Appellant

For Defendant-Appellee

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{¶1} Defendant Federal Insurance Company appeals a summary judgment of the Court of Common Pleas of Delaware County, Ohio, which found Federal Insurance Company's policy of insurance for Huntington Bancshares, Inc., provided uninsured and underinsured motorist coverage for plaintiff Kurt Kowars, an employee of Huntington.

{¶2} The record indicates certain facts are undisputed. On December 20, 2000, Kurt and Susan Kowars with their two minor children, Kara and Kevin, were involved in an automobile collision with defendant Stephen A. Yount. At the time of the accident, Yount was leaving a country club after attending a retirement dinner party for a colleague. Yount worked for Frontstep, Inc.

{¶3} On November 13, 2001, Susan Kowars was involved in a second accident. The alleged tortfeasor was Devon L. Smith.

{¶4} Kowars' complaint was filed against Stephen Yount, Devon Smith, Frontstep, Inc. and Federal Insurance.

{¶5} The trial court's judgment entry of August 25, 2003 overruled Federal Insurance Company's motion for summary judgment and granted partial summary judgment to Kowars. The judgment entry deals only with Kurt Kowars' claims against Federal. Susan, Kevin, and Kara's claims against Federal had been withdrawn prior to the summary judgment.

{¶6} The final sentence in the trial court's judgment entry states it is a final appealable order, but it does not state there is no just cause for delay. The record

indicates the litigation amongst the remaining parties was still going on at the time of oral argument.

{¶7} Civ. R. 54 (B) provides if there are multiple claims or parties, a court may enter final judgment as to one or more but fewer than all the claims or parties only upon an express determination there is no just reason for delay. In the absence of such a determination, a decision which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not a final appealable order.

{¶8} Appellate courts have jurisdiction to review only final orders or judgments pursuant to Ohio Constitution Section 3, Article IV. If an order is not final and appealable, then an appellate court has no jurisdiction to review the matter and it must be dismissed, see, e.g., *Heinz v. Riffle*, Muskingum Appellate No. CT-2002-0047, 2003-Ohio-6358.

{¶9} The appeal is dismissed for lack of jurisdiction.

Appeal dismissed.

Farmer and Edwards, JJ., concur

JUDGES

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