

[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 :

vs. :

SUSAN G. JAROSICK, et al. :

Defendants-Appellants :

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JOURNAL ENTRY

and

OPINION

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:

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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).