

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY, OHIO**

EVELYN C. BERRY, et al.,	:	MEMORANDUM OPINION
Plaintiffs-Appellees,	:	
- vs -	:	CASE NO. 2005-P-0008
CURTIS TAYLOR, et al.,	:	
Defendants,	:	
DAIMLER CHRYSLER INSURANCE CO.,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2003 CV 0647.

Judgment: Appeal dismissed.

Norman W. Sandvoss, 228 W. Main Street, P.O. Box 248, Ravenna, OH 44266 and *Carole A. Lohr*, 55 Public Square, #800, Cleveland, OH 44113 (For Plaintiffs-Appellees).

Brian A. Meeker, 1400 Midland Building, 101 Prospect Avenue, West, Cleveland, OH 44115 (For Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶1} On January 26, 2005, appellant, Daimler Chrysler Insurance Co., filed a notice of appeal from a December 27, 2004 judgment of the Portage County Court of Common Pleas. In that judgment, it appeared that claims against defendants, Curtis

Taylor, Kara N. Young, and Progressive Insurance Co., had not yet been resolved. Additionally, the trial court did not employ Civ.R. 54(B) language in its judgment.

{¶2} On April 18, 2005, this Court issued a judgment ordering appellant to show cause why the case should not be dismissed due to lack of a final appealable order. This Court cited the case of *Hughes v. Miner* (1984), 15 Ohio App.3d 141, for the proposition that when claims remain pending in the trial court, and the court has not made the Civ.R. 54(B) determination that there is no just reason for delay, an appellate court lacks jurisdiction to consider the appeal.

{¶3} Appellant filed an untimely reply to this Court's order in which it admitted that the order being appealed was not final.

{¶4} Accordingly, this appeal is hereby dismissed sua sponte for lack of a final appealable order.

{¶5} Appeal dismissed.

DONALD R FORD, P.J.,

WILLIAM M. O'NEILL, J.,

concur.