

**COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
LAKE COUNTY, OHIO**

VILLAGE OF TIMBERLAKE,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellant,	:	
-vs-		<b>CASE NO. 2004-L-200</b>
STEVEN D. GRAHAM,	:	
Defendant-Appellee.		

Civil Appeal from Lake County Common Pleas Court, Case No. 03 CV 001334.

Judgment: Appeal Dismissed.

*Michael P. Germano*, Wiles and Richards, Centre Plaza South, 35350 Curtis Boulevard, #530, Eastlake, OH 44095 (For Plaintiff-Appellant).

*Joseph M. Gurley*, Rand, Gurley, Hanahan, Koerner, 270 East Main Street, #300, Painesville, OH 44077 (For Defendant-Appellee)

WILLIAM M. O'NEILL, J.,

{¶1} On November 29, 2004, appellant Village of Timberlake, filed a notice of appeal from a November 1, 2004 judgment of the Lake County Court of Common Pleas. In that entry, the trial court denied appellant's motion for summary judgment on the counterclaim filed by appellee, Steven D. Graham.

{¶2} On January 25, 2005, appellee filed a motion to dismiss this appeal due to lack of a final appealable order. This was in response to a brief in support of jurisdiction

filed by appellant on January 3, 2005. On February 8, 2005, appellant filed a response to appellee's motion to dismiss.

{¶3} It is clear that the trial court has yet to issue a final order in this case. The denial of a motion for summary judgment is not a final appealable order. *State ex rel. Overmeyer v. Walinski* (1966), 8 Ohio St.2d 23. The denial of a motion for summary judgment is always reviewable on an appeal from a subsequent final judgment. *Sagenich v. Erie Ins. Group* (Dec. 12, 2003), 11th Dist. No. 2003-T-0144, 2003 Ohio App. LEXIS 5991, ¶3.

{¶4} Accordingly, appellee's motion to dismiss this appeal is hereby granted.

{¶5} Appeal dismissed.

DONALD R. FORD, P. J.,

COLLEEN M. O'TOOLE, J.,

concur.

