[Cite as *Wiltz v. Clark Schaefer Hackett & Co.*, 2011-Ohio-5616.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Cassandra Wiltz,	:	
Plaintiff-Appellant,	:	Nos. 11AP-64 and
v.	:	11AP-282 (C.P.C. No. 10CVH08-11570)
Clark Schaefer Hackett & Co. et al.,	:	(REGULAR CALENDAR)
Defendants-Appellees.	:	

D E C I S I O N

Rendered on November 1, 2011

Cassandra Wiltz, pro se.

Pyper Alexander & Nordstrom, LLC, and *Thomas H. Pyper*, for appellees Clark Schaefer Hackett & Co., and Kent D. Pummel.

Porter, Wright, Morris & Arthur, LLP, *David S. Bloomfield, Jr.*, and *Ryan P. Sherman*, for appellees Schneider Downs and Co., Inc., Joseph Patrick, Roy Lydic, and Bradley P. Tobe.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Plaintiff-appellant, Cassandra Wiltz, appeals judgments of the Franklin County Court of Common Pleas in favor of defendants-appellees, Clark Schaefer Hackett & Company and Kent D. Pummel (together the "Clark defendants") and Schneider Downs and Co., Inc., Joseph Patrick, Roy Lydic, and Bradley P. Tobe (together the "Schneider

defendants"). For the following reasons, we affirm the trial court's December 20, 2010 judgment, and we vacate the February 24, 2011 judgment.

{¶2} This action arises out of Wiltz's employment with Moundbuilders Guidance Center, Inc. ("Moundbuilders") as its controller. Wiltz's job duties included maintaining Moundbuilders' financial records. Moundbuilders engaged Clark Schaefer Hackett & Company to perform yearly audits of its financial statements for the 2003-2004, 2004-2005, 2005-2006, and 2006-2007 fiscal years. Pummel oversaw those yearly audits. Moundbuilders hired Schneider Downs and Co., Inc., to audit its financial statements for the 2007-2008 fiscal year. Apparently, Patrick, Lydic, and Tobe participated in that audit.

{¶3} Wiltz brought suit against defendants on August 6, 2010. In her complaint, Wiltz alleged that shortly after beginning her employment with Moundbuilders, she discovered that it maintained false and misleading financial records, and that it used those records to fraudulently obtain funding. Wiltz asserted that Moundbuilders understated expenses, overstated income, did not make needed financial adjustments, and failed to follow generally accepted accounting principles. According to Wiltz, Moundbuilders employees explained to her that the Clark defendants had assisted Moundbuilders with its improper accounting and reporting practices. Wiltz allegedly also discovered that Moundbuilders employees and board members, along with the Clark and Schneider defendants, agreed that: (1) "off-the-books" records would be used to prepare Moundbuilders' financial statements, (2) the general ledger would be corrected only at the end of the 2007-2008 fiscal year, and (3) the audit report for the 2007-2008 fiscal year would falsely state that Moundbuilders had no apparent internal control weaknesses over financial reporting and that any problems with Moundbuilders' accounting practices were

not deliberate. According to Wiltz, the Schneider defendants carried out the latter two tasks.

{¶4} Wiltz also claimed that Jeff Forman, Moundbuilders' chief financial officer, instructed her to make erroneous journal entries in Moundbuilders' financial records. When Wiltz refused and objected to Moundbuilders' accounting practices, Forman and other Moundbuilders employees allegedly threatened, intimidated, and harassed her, and subjected her to differential treatment that Wiltz believed was racially motivated.[1] Wiltz then complained to Moundbuilders' board about the treatment that she had received and her belief that Moundbuilders engaged in improper accounting practices. According to Wiltz, her complaints caused certain Moundbuilders employees and board members to decide to terminate her employment. In her complaint, Wiltz asserted that this group advised defendants that they intended to retaliate against Wiltz for her complaints by firing her. The group also allegedly told defendants that they knew that Wiltz's complaints about Moundbuilders' accounting practices were valid, but they asked defendants to provide statements that the complaints were actually unsound and untrue. According to Wiltz, defendants agreed to the proposed scheme, and they then provided false statements to Moundbuilders, which Moundbuilders relied on to justify the termination of Wiltz's employment.

{¶5} Based on the allegations of the complaint, Wiltz asserted that defendants aided, abetted, incited, compelled, and/or coerced Moundbuilders to discharge her because of her race. Wiltz contended that these actions violated R.C. 4112.02. Wiltz

[1] In her complaint, Wiltz alleged that she is African American.

also asserted claims for professional negligence and intentional infliction of emotional distress.

{¶6} Originally, this case was assigned to Judge Beverly Y. Pfeiffer. Judge Pfeiffer, however, requested that the administrative judge reassign the case to another judge because she was a client of Clark Schaefer Hackett & Company. An entry dated December 13, 2010 indicates that the administrative judge approved the recusal and transferred the case to Judge David Cain.

{¶7} After answering Wiltz's complaint, the Clark defendants moved for summary judgment on all of Wiltz's claims. To support their motion, the Clark defendants relied on Pummel's affidavit. Pummel testified that Patrick Evans, the chief executive officer of Moundbuilders, faxed to him a copy of a letter from Wiltz criticizing Moundbuilders' accounting practices and a copy of a letter from Forman responding to Wiltz's criticisms. Pummel reviewed the letters and told Evans that the dispute between Wiltz and Forman appeared to have arisen from a miscommunication between them. At the request of a member of Moundbuilders' board, Pummel reiterated his opinion regarding the dispute to the entire board. Pummel also informed the board that certain criticisms Wiltz set forth in her letter had some validity. During these two conversations, neither Evans nor the board disclosed to Pummel that Moundbuilders was contemplating any employment-related discipline with regard to Wiltz. Additionally, neither Evans nor the board mentioned Wiltz's race. At the time of the two conversations, Pummel did not know Wiltz's race.

{¶8} Like the Clark defendants, the Schneider defendants also answered Wiltz's complaint. The Schneider defendants, however, then moved for judgment on the pleadings, not summary judgment. In large part, the Schneider defendants' arguments

depended upon their assertion, supported by a letter attached to their answer, that Moundbuilders did not formally engage Schneider to perform the 2007-2008 audit until two months after Moundbuilders discharged Wiltz.

{¶9} Wiltz did not respond to either motion. On December 20, 2010, the trial court issued a decision and entry that granted both the Clark and Schneider defendants' motions.

{¶10} On January 19, 2011, Wiltz filed a notice of appeal from the December 20, 2010 judgment. On the same day, Wiltz also filed a motion before the trial court entitled "Motion for Order that Reconsiders, Reverses, and Grants Relief from the Judgment Dated 12/20/10, for an Order that Compels Defendants to Provide the Plaintiff with Copies of the Summary Judgment Motion and the Motion for Judgment on the Pleadings, and for an Order that Establishes a Due Date for the Plaintiff's Oppositions/Responses to the Summary Judgment Motion and the Motion for Judgment on the Pleadings." (R. at 69.) In the affidavit Wiltz filed with her motion, she averred that neither the Clark nor Schneider defendants had provided her with copies of their motions.

{¶11} On February 24, 2011, the trial court issued a decision and entry denying Wiltz's motion. Wiltz then appealed that judgment. We consolidated this second appeal with the appeal from the December 20, 2010 judgment.

{¶12} On appeal from the December 20, 2010 judgment, i.e., appeal No. 11AP-64, Wiltz assigns the following errors:

> [1.] The trial Court erred, by dismissing the plaintiff's complaint (on the basis of motions of defendants) without providing the plaintiff with either a Notice of the Hearing Date for the Motions, a Notice of the Date that the Motions were Submitted to a New Trial Judge, or a Notice of the Date of the

> Recusal of the Judge who had a Conflict of Interest Related to the Case.
>
> [2.] Fraud and misconduct of the defendants and of agents of the trial Court (including of a biased judge who had a conflict of interest related to the case) resulted in the plaintiff's inability to oppose the defendants' motions, a dismissal judgment (made solely because of the failure to oppose the motions) that is against the manifest weight of evidence in the Record, and denial of the plaintiff's due process right to be "heard" by the Court.
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> [3.] The trial Court erred, by making an order on the basis of a Summary Judgment motion that was prematurely made (and that the plaintiff was also unaware had been made).

{¶13} Before addressing the merits of Wiltz's arguments, we must determine what evidence we may consider in reviewing Wiltz's appeal from the December 20, 2010 judgment. Appellate review is limited to the record as it existed at the time the trial court rendered its judgment. *Fifth Third Bank v. Financial S. Office Partners, Ltd.*, 2d Dist. No. 23762, 2010-Ohio-5638; *Cunningham v. Cunningham*, 5th Dist. No. 09-CA-25, 2010-Ohio-1397, ¶65; *Paasewe v. Wendy Thomas 5 Ltd.*, 10th Dist. No. 09AP-510, 2009-Ohio-6852, ¶15. See also *UAP-Columbus JV326132 v. Young*, 10th Dist. No. 09AP-646, 2010-Ohio-485, ¶32 ("Our review of summary judgment is limited solely to the evidence that was before the trial court at the time of its decision."). " 'A reviewing court cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter.' " *Morgan v. Eads*, 104 Ohio St.3d 142, 2004-Ohio-6110, ¶13 (quoting *State v. Ishmail* (1978), 54 Ohio St.2d 402, paragraph one of the syllabus). Likewise, "a reviewing court cannot consider evidence that a party added to the trial court record after that court's judgment, and then decide an appeal from the judgment based on the new evidence." *Paasewe* at ¶15. See also *Wallace v.*

Mantych Metalworking, 189 Ohio App.3d 25, 2010-Ohio-3765, ¶10-11 (refusing to consider a deposition filed with the trial court after the court rendered the judgment being appealed); *Waterford Tower Condominium Assn. v. TransAmerica Real Estate Group*, 10th Dist. No. 05AP-593, 2006-Ohio-508, ¶13 (refusing to consider evidence adduced to support a motion for reconsideration when reviewing the underlying judgment).

{¶14} In her appeal from the December 20, 2010 judgment, Wiltz relies extensively on documents and affidavit testimony that she submitted in support of her post-judgment motion. As none of that evidence was before the trial court when it rendered the December 20, 2010 judgment, we cannot consider that evidence in appeal No. 11AP-64.

{¶15} Also, as an initial matter, we note that some of the arguments that Wiltz sets forth in her appellate briefs do not correlate with any assignment of error. Pursuant to App.R. 12(A)(1)(b), appellate courts must "[d]etermine [an] appeal on its merits on the assignments of error set forth in the briefs under App.R. 16." Thus, generally, appellate courts will rule only on assignments of error, not mere arguments. *Ellinger v. Ho*, 10th Dist. No. 08AP-1079, 2010-Ohio-553, ¶70. In the case at bar, we decline to address those arguments that are unrelated to any assignment of error.

{¶16} By Wiltz's first assignment of error, she argues that the trial court erred in not giving her notice of: (1) the hearing date for defendants' motions, (2) the date on which the motions were submitted to the trial court, and (3) the date of Judge Pfeiffer's recusal. None of these arguments have any merit.

{¶17} A trial court need not notify the parties of a non-oral hearing date, i.e., the date on which a motion for summary judgment is submitted for consideration, if a local

rule of court provides sufficient notice of that date. *Hooten v. Safe Auto Ins. Co.*, 100 Ohio St.3d 8, 2003-Ohio-4829, syllabus. While *Hooten* dealt specifically with a motion for summary judgment, we find that its logic extends to motions for judgment on the pleadings as well.

{¶18} The Franklin County Court of Common Pleas has adopted Loc.R. 21.01,[2] which states that:

> All motions shall be accompanied by a brief stating the grounds and citing the authorities relied upon. The opposing counsel or a party shall serve any answer brief on or before the 14th day after the date of service as set forth on the certificate of service attached to the served copy of the motion. The moving party shall serve any reply brief on or before the 7th day after the date of service as set forth on the certificate of service attached to the served copy of the answer brief. On the 28th day after the motion is filed, the motion shall be deemed submitted to the Trial Judge. Oral hearings on motions are not permitted except upon leave of the Trial Judge upon written request by a party.

Pursuant to this rule, unless a party requests and receives leave for an oral hearing, the trial court resolves the motion through a non-oral hearing. A non-oral hearing occurs when the memoranda and supporting evidentiary materials are submitted to the court. *Hooten* at ¶9, fn. 1. Thus, in accordance with Loc.R. 21.01, a non-oral hearing occurs on the 28th day after the motion is filed.

{¶19} In the instant case, no party requested leave for an oral hearing, so defendants' motions received a non-oral hearing. Under the standard set by *Hooten*, Loc.R. 21.01 provides parties with adequate notice of the non-oral hearing date, i.e., the

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[2] Civ.R. 6(D) specifies when a party must serve a motion and the notice of a hearing on the motion. However, Civ.R. 7(B)(2) gives trial courts the authority to enact a local rule of court that modifies the time frame set out in Civ.R. 6(D) and/or provides for the determination of motions without an oral hearing. *Hillabrand v. Drypers Corp.*, 87 Ohio St.3d 517, 519, 2000-Ohio-468. The Franklin County Court of Common Pleas employed that authority in adopting Loc.R. 21.01.

date on which motions are deemed submitted to the court. *Vahdati'bana v. Scott R. Roberts & Assoc. Co., L.P.A.*, 10th Dist. No. 07AP-581, 2008-Ohio-1219, ¶18. We thus conclude that Wiltz received adequate notice, and that the trial court did not err in failing to provide her additional notice.

{¶20} In so concluding, we reject Wiltz's argument that Loc.R. 21.01 did not apply to defendants' motions because a judge who later recused herself presided over the case on the date of the non-oral hearing. The assigned judge retains authority over a case until the recusal and transfer of the case to another judge is journalized on the record. *State v. Aderhold*, 9th Dist. No. 07CA0047-M, 2008-Ohio-1772, ¶13; *Frankart v. Frankart*, 3d Dist. No. 13-02-39, 2003-Ohio-1662, ¶19-20. Therefore, Judge Pfeiffer's recusal did not interfere with the operation of Loc.R. 21.01.

{¶21} Wiltz also complains that the trial court should have notified her of the date on which Judge Pfeiffer's recusal became effective. Wiltz cites no law, and we can find no law, that mandates such notification.[3] The record contains an entry documenting Judge Pfeiffer's recusal and transfer of the case to Judge Cain. Parties to an action have a duty to keep themselves apprised of the entries on the record and to monitor the progress of their case. *CitiMortgage, Inc. v. Bumphus*, 6th Dist. No. E-10-066, 2011-Ohio-4858, ¶36; *Yoder v. Thorpe*, 10th Dist. No. 07AP-225, 2007-Ohio-5866, ¶13; *Honda v. Mid-West Restaurant Equip., Inc.* (May 22, 2001), 10th Dist. No. 00AP-842. Thus, Wiltz had constructive notice of the date of Judge Pfeiffer's recusal. See *Stewart v. Strader*, 2d Dist. No. 2008 CA 116, 2009-Ohio-6598, ¶19-22 (holding that an entry

[3] Civ.R. 5(A) does not apply in this instance because the entry was not "required by its terms to be served." *Ohio Valley Radiology Assoc. v. Ohio Valley Hosp. Assn.* (1986), 28 Ohio St.3d 118, 124 ("Civ.R. 5(A) does not require the service of orders unless the order is 'required by its terms to be served.' ").

journalized on the docket provided the parties with constructive notice of the trial court's ruling); *Evans v. Mazda Motors of Am., Inc.*, 4th Dist. No. 06CA3118, 2007-Ohio-4622, ¶13-14 (same).

{¶22} In sum, we conclude the trial court did not need to notify Wiltz of the date on which defendants' motions were submitted to the trial court or the filing of the recusal entry. Accordingly, we overrule Wiltz's first assignment of error.

{¶23} By Wiltz's second assignment of error, she argues that the judgment against her was the result of the trial court's and defendants' fraud and misconduct. We disagree.

{¶24} Wiltz first alleges that Judge Pfeiffer engaged in fraud and misconduct because she waited four months after the filing of the complaint to recuse herself. Wiltz also alleges that Judge Pfeiffer and defendants somehow conspired to defeat Wiltz's action. Both allegations are baseless. Wiltz can point to no evidence that justifies her inference that Judge Pfeiffer intentionally delayed her recusal to cause the dismissal of Wiltz's claims. Likewise, Wiltz's conspiracy allegation rests on mere speculation. We caution Wiltz that future allegations made without "good ground" to support them can expose her to Civ.R. 11 sanctions.

{¶25} Second, Wiltz maintains that court personnel acted fraudulently when they informed her in November 2010 that no motions would be heard until Judge Pfeiffer recused herself. Assuming that such a representation was made, it was essentially correct. Judge Cain, not Judge Pfeiffer, considered and decided the motions at issue.

{¶26} Third, Wiltz argues that the initial submittal of defendants' motions to Judge Pfeiffer constituted fraud and misconduct. The motions were deemed submitted to Judge

Pfeiffer by operation of local rule, not as a consequence of fraud or misconduct. Furthermore, while the motions were initially submitted to Judge Pfeiffer, they were decided by Judge Cain. Thus, no prejudice to Wiltz resulted.

{¶27} Fourth, Wiltz contends that defendants committed fraud and misconduct by not serving her with their motions. We reject this contention. Service upon a party may "be made by * * * mailing [a copy] to the last known address of the person to be served." Civ.R. 5(B). "Service by mail is complete upon mailing." Id. Where the record reflects that a party has followed the Ohio Civil Rules of Procedure, courts presume proper service unless the presumption is rebutted with sufficient evidence. *Roberts v. Columbus City Police Impound Div.*, 10th Dist. No. 10AP-863, 2011-Ohio-2873, ¶11; *Paasewe* at ¶22.

{¶28} Here, each motion included a certificate of service that stated that a copy of the motion was mailed to Wiltz at the address listed on the complaint. As defendants complied with Civ.R. 5, a presumption of proper service arose. At the time the trial court rendered its December 20, 2010 judgment, no evidence in the record rebutted this presumption. Consequently, on appeal of the December 20, 2010 judgment, Wiltz cannot prove any fraud or misconduct in the service of the motions.

{¶29} Finally, Wiltz claims that the facts that defendants asserted in their motions were false and intentionally misleading. Wiltz, however, cites solely to evidence submitted with her post-judgment motion to rebut the facts presented by defendants. As none of Wiltz's evidence was in the record at the time the trial court entered judgment, we cannot consider it on appeal of that judgment. *Paasewe* at ¶15; *Waterford Tower*

Condominium Assn. at ¶13. Therefore, we find Wiltz's attack on defendants' version of the facts unavailing.

{¶30} In sum, we find no fraud or misconduct warranting a reversal of the December 20, 2010 judgment.[4] Accordingly, we overrule Wiltz's second assignment of error.

{¶31} By Wiltz's third assignment of error, she argues that the trial court erred in granting a motion for summary judgment filed before the expiration of the discovery period. We disagree.

{¶32} Civ.R. 56 does not mandate that full discovery must be completed before a defending party moves for summary judgment. *Pinnacle Credit Servs., LLC v. Kuzniak*, 7th Dist. No. 08 MA 111, 2009-Ohio-1021, ¶21. To the contrary, Civ.R. 56(B) provides that, generally, "[a] party against whom a claim, counterclaim, or cross-claim is asserted * * * may, *at any time*, move * * * for a summary judgment in the party's favor." (Emphasis added.) Once the trial court sets an action for pretrial or trial, a defending party must receive leave of court to move for summary judgment. Civ.R. 56(B). However, Loc.R. 53.01 grants leave "in all civil cases to file summary judgment motions between the time of filing and the dispositive motion date, unless the Trial Judge decides otherwise by setting a different date." See also *Streets v. Chesrown Ents., Inc.*, 10th Dist. No. 03AP-577, 2004-Ohio-554, ¶5 (holding that no prejudicial error resulted from the trial court's consideration of a motion for summary judgment filed by the defending party prior to the dispositive motion date).

[4] Some of Wiltz's claims of fraud and misconduct are the subject of the other two assignments of error. The action and inaction complained of in the other two assignments of error do not amount to error, much less fraud or misconduct.

{¶33} If a party moves for summary judgment before the completion of discovery, the responding party can request under Civ.R. 56(F) that the trial court stay ruling on the motion to allow further discovery. *Moore v. Kroger Co.*, 10th Dist. No. 10AP-431, 2010-Ohio-5721, ¶23; *BMI Fed. Credit Union v. Burkitt*, 10th Dist. No. 09AP-1024, 2010-Ohio-3027, ¶17. When a party fails to file a Civ.R. 56(F) motion, the trial court may rule on a motion for summary judgment, even if the responding party's discovery requests remain outstanding. Id.

{¶34} Here, the clerk's original case schedule set trial for August 17, 2011. The case schedule designated May 13, 2011 as the deadline for the filing of dispositive motions. The Clark defendants filed their motion for summary judgment well before the dispositive motion deadline, making it timely under Loc.R. 53.01. As Wiltz did not seek Civ.R. 56(F) relief, the trial court did not err in deciding the Clark defendants' motion before the discovery period lapsed. Accordingly, we overrule Wiltz's third assignment of error.

{¶35} We next turn to Wiltz's appeal from the February 24, 2011 judgment, i.e., appeal No. 11AP-282. In that appeal, Wiltz assigns the following errors:

> [1.] The trial Court erred (and further demonstrated its bias against the plaintiff and denied the plaintiff due process), by making a 2/24/11 order that denied the plaintiff's Motion for an Order that Reconsiders, Reverses, and Grants Relief from the Judgment Dated 12/20/10, "after the plaintiff filed a Notice of Appeal and while the Appeal was pending" and when the Court did not have jurisdiction to make the order.
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> [2.] The trial Court erred (and further denied the plaintiff's due process right to be "heard" by the Court and demonstrated its bias against the plaintiff) by making a 2/24/11 order that treated the plaintiff's 1/19/11 motion, which was clearly identified as being a Civ.Rule 60(B) motion, only as a Motion for Reconsideration (and a legal nullity).

> [3.] The trial Court erred, by making a 2/24/11 order that is against the weight of evidence that is in the Record.

{¶36} By Wiltz's first assignment of error, she argues that the trial court lacked the jurisdiction necessary to rule on her post-judgment motion. As we stated above, Wiltz's post-judgment motion requested the trial court to "reconsider[ ], reverse[ ], and grant[ ] relief" from the December 20, 2010 judgment. (R. at 69.) In the memorandum supporting the motion, Wiltz asserted that she made her motion "in accordance with any Court Rule that allows parties to make a Motion for Reconsideration and with Rule 60(B)." (R. 68 at 1; emphasis sic.) Therefore, Wiltz's motion sought both reconsideration and Civ.R. 60(B) relief.

{¶37} The Ohio Rules of Civil Procedure do not provide for a motion for reconsideration of a final judgment. *Pitts v. Ohio Dept. of Transp.* (1981), 67 Ohio St.2d 378, paragraph one of the syllabus. Thus, a motion for reconsideration filed after a final judgment, as well as any ruling a trial court makes on that motion, are legal nullities. Id. at 380-81. See also *Kelley v. Stauffer*, 10th Dist. No. 10AP-235, 2010-Ohio-4522, ¶6; *Duncan v. Capitol S. Community Urban Redevelopment Corp.*, 10th Dist. No. 02AP-653, 2003-Ohio-1273, ¶20. In the case at bar, the trial court rendered a final judgment when it issued its December 20, 2010 decision and entry. Consequently, to the extent that Wiltz's post-judgment motion sought reconsideration of the December 20, 2010 judgment, it was a legal nullity. Likewise, to the extent that the February 24, 2011 judgment denied Wiltz reconsideration, it, too, was a legal nullity.

{¶38} In addition to seeking reconsideration, Wiltz's post-judgment motion also asked the trial court to grant Civ.R. 60(B) relief. A final judgment can be the subject of a Civ.R. 60(B) motion requesting relief from judgment. *Pitts* at 380; *Rose v. Zyniewicz*, 10th

Dist. No. 10AP-91, 2011-Ohio-3702, ¶15. However, once a party has appealed the underlying judgment, the trial court loses jurisdiction to consider a Civ.R. 60(B) motion for relief from judgment. *Howard v. Catholic Social Servs. of Cuyahoga Cty., Inc.* (1994), 70 Ohio St.3d 141, 147. The trial court only acquires jurisdiction to consider a Civ.R. 60(B) motion if the appellate court remands the matter to the trial court for such consideration. Id.

{¶39} Here, Wiltz filed her notice of appeal from the December 20, 2010 judgment and her post-judgment motion on the same day. Wiltz did not ask for, and we did not initiate, a remand to the trial court for consideration of Wiltz's post-judgment motion. The trial court, therefore, lacked jurisdiction to render judgment on Wiltz's request for Civ.R. 60(B) relief. Consequently, to the extent that the February 24, 2011 judgment denied Wiltz Civ.R. 60(B) relief, it is a void judgment. See *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶11 (" 'If a court acts without jurisdiction, then any proclamation by that court is void.' ").

{¶40} Given the foregoing, we sustain that portion of Wiltz's first assignment of error that asserts that the trial court lacked jurisdiction to render judgment on her request for Civ.R. 60(B) relief. We overrule the remainder of the first assignment of error. As our ruling on the first assignment of error renders the remaining assignments of error moot, we need not decide them.

{¶41} In summary, with regard to appeal No. 11AP-64, we overrule all of Wiltz's assignments of error, and we affirm the December 20, 2010 judgment of the Franklin County Court of Common Pleas. With regard to appeal No. 11AP-282, we sustain in part and overrule in part Wiltz's first assignment of error, and we find Wiltz's second and third

assignments of error moot. Because the trial court lacked jurisdiction to render the February 24, 2011 judgment, we vacate it.

Judgment affirmed in appeal No. 11AP-64;
judgment affirmed in part and sustained in part;
and judgment vacated in appeal No. 11AP-282.

BRYANT, P.J., and TYACK, J., concur.