

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

CHERYL MAGGARD, et al.,	:	<b>MEMORANDUM OPINION</b>
Plaintiffs,	:	
REGINALD MARTIN,	:	
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2004-L-087</b>
MARK ZERVOS, et al.,	:	9/30/04
Defendants.	:	
DENISE ZERVOS,	:	
Defendant-Appellant.	:	

Civil appeal from the Lake County Court of Common Pleas, Case No. 99 CV 001724.

Judgment: Appeal dismissed.

*Edward J. Heben, Jr.*, Heben & Associates, The Life Building, 3740 Euclid Avenue, Cleveland, OH 44115-1601 (For Plaintiff-Appellee).

*Jeffrey H. Black and John S. Lobur*, Jeffrey H. Black Co., L.P.A., 1501 Madison Avenue, Painesville, OH 44077 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} This matter is before this court on the motion of plaintiff, Cheryl Maggard, to dismiss this appeal due to lack of a final appealable order and, also, because

appellant, Denise Zervos, is not a party in the underlying case. For the reasons that follow, this case must be dismissed.

{¶2} In the trial court, there are two cases that have been consolidated: Lake Common Pleas Nos. 99 CV 001724 and 03 CV 002450. There is no indication that 03 CV 002450 has yet been concluded. There is also no Civ.R. 54(B) language in the trial court's judgment entry stating that there was no just reason for delay.

{¶3} It is well-established that the conclusion of one case in a consolidated action does not constitute a final appealable order. *Mezerkor v. Mezerkor* (1994), 70 Ohio St.3d 304; *Klein v. Howard, Wershbale & Co.*, 8th Dist. No. 83218, 2004-Ohio-2010, ¶ 7; *Graphic Enterprises, Inc. v. Keybank National Assoc.*, 11th Dist. No. 2001-P-0129, 2002-Ohio-5159, ¶ 10-11.

{¶4} Since the judgment entry being appealed only disposed of a part of a consolidated case, and did not contain Civ.R. 54(B) certification, there is no final appealable order before this court. Accordingly, this case is hereby dismissed. We note, however, that the motion to dismiss filed by Cheryl Maggard is not properly before this court due to the fact that Maggard is not a party to this particular appeal. Technically, therefore, Maggard's motion to dismiss is overruled, and the case is, sua sponte, dismissed.

{¶5} Appeal dismissed.

DONALD R. FORD, P.J.,

WILLIAM M. O'NEILL, J.,

concur.