

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

GREGORY MALENDIA,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2004-L-080
CELINA GROUP, et al.,	:	
Defendant-Appellant.	:	

Civil appeal from the Court of Common Pleas, Case No. 03 CV 000673.

Judgment: Appeal dismissed.

Edward O. Patton, Mansour, Gavin, Gerlack & Manos Co., L.P.A., 55 Public Square, #2150, Cleveland, OH 44113-1994 (For Plaintiff-Appellee).

Les Chambers, 163 North Sandusky Street, #205, Delaware, OH 43015 (For Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶ 1} On May 14, 2004, appellant, Celina Group, filed a notice of appeal from a May 5, 2004 judgment of the Lake County Court of Common Pleas. In that judgment, the trial court denied appellant's motion for summary judgment.

{¶ 2} It is well established that 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. This is due to the fact that the denial does not determine the action and prevent a judgment and is, therefore, not a final order under R.C. 2505.02. *Celebrezze v. Netzley*

(1990), 51 Ohio St.3d 89, 90. See, also, *Klein v. Portage Cty.* (2000), 139 Ohio App.3d 749, 751. The denial of a motion for summary judgment is always reviewable on appeal following a subsequent final judgment.

{¶ 3} Based upon the foregoing analysis, this appeal is hereby sua sponte dismissed due to lack of a final appealable order.

Appeal dismissed.

DONALD R. FORD, P.J.,

WILLIAM M. O'NEILL, J.,

concur.