

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

EDWARD B. WEST,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2005-T-0044</b>
CARFAX, INC., et al.,	:	
Defendants-Appellants.	:	

Civil Appeal from the Court of Common Pleas, Case No. 04 CV 1898.

Judgment: Appeal dismissed.

*Curtis J. Ambrosy and James A. Fredericka*, 144 North Park Avenue, Suite 200, Warren, OH 44481 and *William B. Federman and William Pat Wasson*, 120 North Robinson, Suite 2720, Oklahoma City, OK 73102 (For Plaintiff-Appellee).

*Hugh E. McKay and Tracey L. Turnbull*, 925 Euclid Avenue, Suite 1700, Cleveland, OH 44115 (For Defendants-Appellants).

COLLEEN MARY O'TOOLE, J.

{¶1} On April 8, 2004, appellants, Carfax, Inc., and Polk Carfax, Inc., filed a notice of appeal from a March 10, 2005 judgment of the Trumbull County Court of Common Pleas. In that judgment, the trial court denied appellants' motion to dismiss the case, and included language that there was no just cause for delay.

{¶2} It is well established that the denial of a motion to dismiss is not a final appealable order. *Ferrell v. Standard Oil Co. of Ohio* (1984), 11 Ohio St.3d 169. It is

also clear that the mere addition of Civ.R. 54(B) language to what is not a final order does not magically transform that judgment into a final appealable order. *Wisintainer v. Elcen Power Strut Co.* (1993), 67 Ohio St.3d 352, at 354; see, also, *Graines v. Y.D.C. Corp.* (May 11, 2001), 11th Dist. No. 2000-L-053, 2001 WL 501994.

{¶3} Based upon the foregoing analysis, the judgment of the trial court in this case is not a final appealable order and, therefore, this court is without jurisdiction to consider this matter.

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

{¶5} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.