

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

LAURENCE DE LEON LOMAZ,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2007-P-0040
ATTORNEY GEORGE GIBEL,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2003 CV 00546.

Judgment: Appeal dismissed.

Laurence De Leon Lomaz, pro se, 8174 South Las Vegas Boulevard, Suite 109, Las Vegas, NV 89123 (Plaintiff-Appellee).

George R. Gibel, pro se, 1276 West Third Street, #411, Cleveland, OH 44113 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} On May 15, 2007, appellant, Attorney George Gibel, filed a notice of appeal from an April 10, 2007 magistrate’s decision issued by the Portage County Court of Common Pleas.

{¶2} The magistrate’s decision dated April 10, 2007, granted judgment in favor of appellee, Laurence De Leon Lomaz, and against appellant in the amount of \$50,000 on appellee’s fraud claim, plus statutory interest, and recommended that appellant pay

appellee's airfare. The magistrate's decision also indicated that if a party files objections to the decision, such objections must be filed within fourteen days of the date of this decision.

{¶3} In the instant matter, the trial court has not yet issued a separate and distinct entry adopting the magistrate's decision. Pursuant to *In re Castrovince* (Aug. 16, 1996), 11th Dist. No. 96-P-0175, 1996 WL 1056815, at 1, the magistrate's decision and the trial court's judgment must be "separate and distinct instruments which are complete and independent of each other." The mere adoption of a magistrate's decision does not constitute a final appealable order. *Id.* In *Castrovince*, this court further stated that based on Civ.R. 54(A), it is not sufficient for a final appealable order that a trial court merely incorporate by reference the recommendations of a magistrate's decision. *Id.*

{¶4} Therefore, in the case at bar, since the trial court has not issued its own "separate and distinct" order setting forth the court's ruling on the matter as of yet, this appeal was prematurely filed.

{¶5} Based upon the foregoing analysis, this appeal is, sua sponte, dismissed for lack of a final appealable order.

{¶6} Appeal dismissed.

CYNTHIA WESTCOTT RICE, P.J.,

COLLEEN MARY O'TOOLE, J.,

concur.