

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

FRANK SASON, III, et al.,	:	MEMORANDUM OPINION
Plaintiffs-Appellees,	:	
- vs -	:	CASE NO. 2007-L-199
KATHY SHEPHERD, a.k.a. KATHY SASON, INDIVIDUALLY AND AS EXECUTOR OF THE ESTATE OF FRANK SASON, JR., DECEASED,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Probate Division, Case No. 06 CW 0008.

Judgment: Appeal dismissed.

Russell J. Meraglio and Franklin C. Malemud, Reminger & Reminger Co., L.P.A., 1400 Midland Building, 101 Prospect Avenue, West, Cleveland, OH 44115-1093 (For Plaintiffs-Appellees).

Carl P. Kasunic and Matthew W. Weeks, Carl P. Kasunic Co., L.P.A., 38033 Euclid Avenue, #1, Willoughby, OH 44094-6101 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On November 28, 2007, appellant, Kathy Shepherd, a.k.a. Kathy Sason, individually and as executor of the estate of Frank Sason, Jr., deceased, filed a notice of appeal from an October 30, 2007 judgment entry of the Lake County Court of Common Pleas, Probate Division.

{¶2} In the October 30, 2007 entry, the trial court denied appellant’s motion to strike the complaint of appellees, Frank Sason, III, Ron Sason, and John Sason, and denied appellant’s motion to dismiss appellees’ action. In that entry, the trial court included language that there “is no just reason for delay.”

{¶3} For this court to have jurisdiction, the appealed judgment must be a final appealable order pursuant to R.C. 2505.02. This court has held that the denial of a motion to dismiss a complaint is not a final appealable order. *Hill v. Home & Roam Pools*, 11th Dist. No. 2003-A-0097, 2003-Ohio-5862, 2003 Ohio App. LEXIS 5213, at ¶9. See, also, *Ferrell v. Standard Oil Co. of Ohio* (1984), 11 Ohio St.3d 169, 171. Furthermore, the mere addition of Civ.R. 54(B) language to what is not a final order does not transform that entry into a final appealable order. *West v. Carfax*, 11th Dist. No. 2005-T-0044, 2005-Ohio-3266, 2005 Ohio App. LEXIS 3009, at ¶2, citing *Wisintainer v. Elcen Power Strut Co.* (1993), 67 Ohio St.3d 352, 354.

{¶4} Based upon the foregoing analysis, the judgment of the trial court in this matter is not a final appealable order. Furthermore, the inclusion of Civ.R. 54(B) language in the October 30 entry does not transform it into a final and appealable order. Thus, this court is without jurisdiction to consider this appeal, and this appeal is hereby, sua sponte, dismissed for lack of a final appealable order.

{¶5} Appeal dismissed.

DIANE V. GRENDALL, J.,
TIMOTHY P. CANNON, J.,
concur.