[Cite as *Globe Auto Ctr. v. A-Tech Automotive Repair*, 2009-Ohio-3407.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

PORTAGE COUNTY, OHIO

GLOBE AUTO CENTER,	:	**MEMORANDUM OPINION**
Plaintiff-Appellee,	:	**CASE NO. 2009-P-0026**
- vs -	:	
JANETTA K. HARRIS,	:	
Defendant,	:	
A-TECH AUTOMOTIVE REPAIR,	:	
Defendant-Appellant.	:	

Civil Appeal from the Portage County Municipal Court, Ravenna Division, Case No. 2009 CVH 0201 R.

Judgment: Appeal dismissed.

Dennis M. Zavinski, 409 South Prospect Street, P.O. Box 268, Ravenna, OH 44266 (For Plaintiff-Appellee).

A-Tech Automotive Repair, c/o Robert J. Slaughter, pro se, 21900 St. Clair Avenue, Euclid, OH 44117 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On April 14, 2009, appellant, A-Tech Automotive Repair, filed a notice of appeal from a March 17, 2009 entry of the Portage County Municipal Court, Ravenna Division. In that entry, the trial court found that there was no error in the magistrate's decision of February 4, 2009, and that its order of February 27, 2009 is "affirmed." In

the February 27, 2009 judgment, the trial court ordered that a writ of replevin be issued on the subject property, a 2002 Ford Explorer.

{¶2} On April 27, 2009, this court issued a judgment entry indicating that we may not have jurisdiction to consider the appeal pursuant to R.C. 2737.14 since damages as a result of the detention of the property have not been determined. We, therefore, ordered A-Tech Automotive Repair to show cause as to why the appeal should not be dismissed for lack of a final appealable order.

{¶3} On May 18, 2009, A-Tech Automotive Repair filed a response to our judgment entry. In its response, A-Tech Automotive Repair addresses the merits of its appeal, but does not address the finality of the appealed order.

{¶4} According to Section 3(B)(2), Article IV of the Ohio Constitution, an appellate court can immediately review a judgment of a trial court only if it constitutes a "final order" in the action. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. If a lower court's order is not final, then an appellate court does not have jurisdiction to review the matter and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. of N. Am.* (1989), 44 Ohio St.3d 17, 20. For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02.

{¶5} Replevin is a "prejudgment remedy which the plaintiff must affirmatively pursue prior to the entry of final judgment." *America Rents v. Crawley* (1991), 77 Ohio App.3d 801, 804. Replevin is available only if specific procedures are followed. Id. Pursuant to R.C. 2737.14, a final judgment in a replevin action "shall award permanent possession of the property and any damages to the party obtaining the award to the extent the damages proximately resulted from the taking, withholding, or detention of

the property by the other ***. If the delivery of the property cannot be made, the action may proceed as a claim for conversion ***."

{¶6} In the instant matter, on January 15, 2009, Globe Auto Center filed a complaint with the trial court which included three causes of action. The first and second causes of action were against A-Tech Automotive Repair for replevin and damages allegedly caused by the wrongful detention of the personal property, respectively. The third cause of action was against defendant, Janetta K. Harris, for breach of the purchase agreement. Globe Auto Center filed a motion for recovery of specific personal property simultaneously with its complaint.

{¶7} It is the opinion of this court that there is no final judgment at this time under R.C. 2737.14. Under the foregoing statute, a final order in a replevin action shall award possession and damages that "proximately resulted from the taking, withholding, or detention of the property by the other." There has been a prejudgment remedy of replevin, but no damages claimed by Globe Auto Center under count two of its complaint for wrongfully "detaining" the vehicle and by virtue of A-Tech Automotive Repair's "refusal to return said vehicle." Costs were awarded, but the damages claim under count two was not addressed. Thus, no final appealable order exists.

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

CYNTHIA WESTCOTT RICE, J.,

TIMOTHY P. CANNON, J.,

concur.