[Cite as *Dorsey v. Dorsey*, 2009-Ohio-3934.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

WILLIAM H. DORSEY, EXECUTOR OF THE ESTATE OF LOTTIE DORSEY,	:	**MEMORANDUM OPINION**
Plaintiff-Appellee,	:	**CASE NO. 2009-T-0027**
- vs -	:	
LEWIS DORSEY, et al.,	:	
Defendant-Appellant.		

Civil Appeal from the Court of Common Pleas, Probate Division, Case No. 2008 CVA 0001.

Judgment: Appeal dismissed.

Thomas E. Schubert, 138 East Market Street, Warren, OH 44481 (For Plaintiff-Appellee).

William P. McGuire, William P. McGuire Co., L.P.A., 106 East Market Street, #705, P.O. Box 1243, Warren, OH 44482-1243 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On April 2, 2009, appellant, Lewis Dorsey, filed a notice of appeal from a March 5, 2009 entry of the Trumbull County Court of Common Pleas, Probate Division. In that entry, the trial court ordered that the non-testamentary dispositions of Lottie Dorsey's accounts made by Lewis Dorsey were invalid. The court further stated that appellee, William H. Dorsey, is the survivor on certain accounts as originally designated by Lottie Dorsey, and as the owner of the joint and survivorship accounts, upon Lottie's

death, William is entitled to the sums that would be remaining in said accounts less the apportioned amount used by the legal guardian for her care. It was further ordered that the $36,153.93 expended by the guardian for the benefit of Lottie and withdrawn from the joint and survivorship accounts be apportioned between the beneficiaries reflecting the percentage of their inheritance. In its entry, the trial court indicated that the matter shall be set for a hearing "to calculate the amount that would be remaining in said accounts as the parties have submitted insufficient information to the Court to make said determination."

{¶2} On May 19, 2009, this court issued a judgment entry indicating that we may not have jurisdiction to consider the appeal since the March 5, 2009 entry appears to be interlocutory pending the determination of the amount remaining in the accounts. We, therefore, ordered Lewis to show cause as to why the appeal should not be dismissed for lack of a final appealable order.

{¶3} On June 2, 2009, Lewis filed a brief in support of jurisdiction. In his brief, Lewis indicates that Civ.R. 54(B) language is not needed for there to be a final appealable order in this case. Lewis cites to *Sullivan v. Anderson Twp.*, Slip Opinion No. 2009-Ohio-1971, for the proposition that the Civ.R. 54(B) language is not necessary in a case involving multiple claims. However, *Sullivan* is distinguishable from the matter at hand since that case involves political subdivision immunity under R.C. 2744.02.

{¶4} On June 11, 2009, William filed a reply to the brief in support of jurisdiction. In his brief, William posits that the appeal is not final because the judgment does not contain Civ.R. 54(B) language. We do not believe this position is correct either. In fact, Civ.R. 54(B) language would not have rectified the situation.

{¶5} Here, in the March 5, 2009 judgment entry, the trial court indicated that the matter shall be set for a hearing "to calculate the amount that would be remaining in said accounts as the parties have submitted insufficient information to the Court to make said determination." It is readily apparent from the foregoing language that "something more is to follow." *State ex rel. Shiplett v. Irvin* (June 2, 1995), 11th Dist. No. 95-L-018, 1995 Ohio App.LEXIS 2297, at *2. Therefore, since there has been no hearing and the case was continued in the trial court pending this appeal, there is no final appealable order.

{¶6} Accordingly, this appeal is hereby dismissed for lack of a final appealable order.

{¶7} Appeal dismissed.

MARY JANE TRAPP, P.J., concurs,

COLLEEN MARY O'TOOLE, J., concurs in judgment only.