

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

JEANETTE M. GARR,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-T-0035
DAVID ZUPPAN,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2009 CV 02588.

Judgment: Appeal dismissed.

Jeffrey A. Kurz, 42 North Phelps Street, Youngstown, OH 44503 (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 March 8, 2010, appellant, David Zuppan, by and through counsel, filed a notice of appeal from a February 8, 2010 judgment entry of the Trumbull County Court of Common Pleas.

{¶2} In the February 8 entry, the trial court denied appellant’s motion to dismiss. In that entry, the trial court ordered appellee, Jeanette Garr, “to file a complaint with more definite notice pleading, wherein the theories of her complaint are more

cogently pleaded.” The trial court also 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. We have held that the denial of a motion to dismiss a complaint is not a final appealable order. *Sason v. Shepherd*, 11th Dist. No. 2007-L-199, 2008-Ohio-173, 2008 Ohio App. LEXIS 145, at ¶3, citing *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, merely adding Civ.R. 54(B) language to an entry that is not final does not transform it into a final appealable order. *Sason*, supra, citing *West v. Carfax*, 11th Dist. No. 2005-T-0044, 2005-Ohio-3266, 2005 Ohio App. LEXIS 3009, at ¶2.

{¶4} Based upon the foregoing analysis, the trial court’s judgment in the instant matter is not a final appealable order. Further, the inclusion of Civ.R. 54(B) language in the February 8, 2010 order does not finalize the non-final order. Thus, this court is without jurisdiction to consider this appeal. Accordingly, this appeal is hereby, sua sponte, dismissed for lack of a final appealable order.

{¶5} Appeal dismissed.

MARY JANE TRAPP, P.J.,

COLLEEN MARY O’TOOLE, J.,

concur.