[Cite as *Meffe v. Griffin*, 2012-Ohio-3642.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

MARY J. MEFFE, et al.,	:	**MEMORANDUM OPINION**
Plaintiff-Appellee,	:	**CASE NO. 2012-T-0032**
- vs -	:	
DAVID GRIFFIN a.k.a. DAVE GRIFFIN, et al.,	:	
Defendants-Appellants.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2010 CV 02891.

Judgment: Appeal dismissed.

Frank R. Bodor, 157 Porter Street, N.E., Warren, OH 44483 (For Plaintiff-Appellee).

David Griffin, pro se, 169 N. Mecca Street, Cortland, OH 44410 and *Donald L. Griffin, Sr.*, pro se, 825 N. River Road, Warren, OH 44483 (Defendants-Appellants).

TIMOTHY P. CANNON, P.J.

{¶1} On April 9, 2012, appellants, David Griffin and Donald L. Griffin, Sr., pro se, filed a notice of appeal from a March 12, 2012 entry of the Trumbull County Court of Common Pleas. In that entry, the trial court ordered that appellee, Mary J. Meffe, recover the sum of $10,560, plus costs, from appellants.

{¶2} Appellee filed a motion to dismiss the appeal on June 5, 2012. Appellee alleges that the request for permanent injunction is still pending in the trial court, and therefore, the order appealed from is not a final appealable order.

{¶3} On June 15, 2012, appellant David Griffin filed a "Reply to Appellee's Motion to Dismiss." In his response, appellant David Griffin states that appellee moved for permanent injunction after the announcement of the jury's decision. Thus, he requests that the matter be stayed until the trial court rules on the motion for permanent injunction and the pending motion for judgment notwithstanding the verdict.

{¶4} Appellee filed a reply to appellant David Griffin's response in opposition on June 21, 2012.

{¶5} A review of the record reveals that on November 4, 2010, appellee, along with two other plaintiffs, filed a complaint for preliminary and permanent injunction and for money damages for trespass. In a March 12, 2012 entry, the trial court issued a judgment confirming a jury verdict in favor of appellee against David Griffin, Donald L. Griffin, Sr., and Big D's of Ohio, Inc. in the sum of $10,560.00, plus costs.

{¶6} On April 9, 2012, when the Notice of Appeal from the March 12, 2012 judgment entry was filed with this court, the claim for permanent injunction remained pending in the trial court, and the entry did not contain Civ.R. 54(B) language, that there is no just reason for delay. Furthermore, it appears that the claims of the other two plaintiffs are still pending in the trial court.

{¶7} In addition, on March 23, 2012, appellants filed a Civ.R. 50(B) motion for judgment notwithstanding the verdict, captioned as a motion for new trial. It appears from the docket that the trial court has not ruled upon this motion.

{¶8} We must determine whether the order appealed from is a final appealable order. According to Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it constitutes a "final order" in the action. *Estate of Biddlestone*, 11th Dist. No. 2010-T-0131, 2011-Ohio-

1299; *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. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20 (1989). For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02 and, if applicable, Civ.R. 54(B).

{¶9} Civ.R. 54(B) provides that:

{¶10} When more than one claim for relief is presented in an action whether as a claim, counterclaim, cross-claim, or third-party claim, and whether arising out of the same or separate transactions, or when multiple parties are involved, the court may enter final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay. In the absence of a determination that there is no just reason for delay, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties, shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

{¶11} It is well established that in a matter where multiple claims and/or parties are involved, a judgment entry that enters final judgment as to one or more, but fewer than all, of the pending claims is not a final appealable order in the absence of Civ.R. 54(B) language stating that "there is not just reason for delay[.]" *Girard v. Leatherworks*

Partnership, 11th Dist. No. 2001-T-0138, 2002-Ohio-7276, ¶17, citing *State ex rel. A & D Ltd. Partnership v. Keefe*, 77 Ohio St.3d 50, 56 (1996); *see also Kessler v. Totus Tuus, L.L.C.*, 11th Dist. No. 2007-A-0028, 2007-Ohio-3019, ¶7.

{¶12} In the instant matter, appellee's claim for permanent injunction is still pending in the trial court. It also appears as though the claims of the other two plaintiffs have not been addressed. Since the trial court's March 12, 2012 order has not entered judgment as to all of the pending claims, no final appealable order exists. Therefore, we are without jurisdiction to entertain an appeal at this time.

{¶13} Based upon the foregoing, this court is without jurisdiction to entertain this appeal. Accordingly, appellee's motion to dismiss the appeal is granted. This appeal is hereby dismissed for lack of a final appealable order.

{¶14} Appeal dismissed.

DIANE V. GRENDELL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.