

THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO

STATE OF OHIO ex rel. MARC DANN, :	MEMORANDUM OPINION
ATTORNEY GENERAL OF OHIO,	:
Plaintiff-Appellee,	:
- VS -	CASE NO. 2007-T-0125
FRANK J. NAYPAVER, et al.,	:
Defendants-Appellants.	:

Civil Appeal from the Court of Common Pleas, Case No. 2007 CV 01796.

Judgment: Appeal dismissed.

George Horvath and Nicholas J. Bryan, Assistant Attorneys General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, OH 43215-3428 (For Plaintiff-Appellee).

Frank J. Naypaver and Lorell A. Naypaver, pro se, 1906 Canterbury Lane, #L-21, Sun City Central, FL 33573 and *Frank Ronald Naypaver*, pro se, 351 Florine Avenue, Leavittsburg, OH 44430 (Defendants-Appellants).

MARY JANE TRAPP, J.

{¶1} On December 27, 2007, appellants, Frank J. Naypaver, Lorell A. Naypaver and Frank Ronald Naypaver, filed a notice of appeal from a November 27, 2007 entry of the Trumbull County Court of Common Pleas.

{¶2} In the November 27, 2007 judgment entry, the trial court granted preliminary and permanent injunctive relief to appellee, State of Ohio ex rel. Marc Dann,

Attorney General of Ohio. The court further indicated that it would retain jurisdiction and that a hearing would be set by the court to determine and assess costs, fines, and civil penalties related to the continued Ohio EPA violations and costs of excavation and clean-up of the property owned or controlled by appellants.

{¶3} Civ.R. 54(B) provides that:

{¶4} “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.”

{¶5} It is well-established that in a situation where there are multiple claims and/or parties involved, an entry that enters final judgment as to one or more but fewer than all of the claims is not a final appealable order in the absence of Civ.R. 54(B) language stating that “there is no just reason for delay[.]” *Girard v. Leatherworks Partnership*, 11th Dist. No. 2001-T-0138, 2002-Ohio-7276, at ¶17, citing *State ex rel. A & D Ltd. Partnership v. Keefe* (1996), 77 Ohio St.3d 50, 56. See, also, *Kessler v. Totus Tuus, L.L.C.*, 11th Dist. No. 2007-A-0028, 2007-Ohio-3019, at ¶ 7.

{¶6} Here, while the trial court granted preliminary and permanent injunctive relief to appellee in the November 27, 2007 entry, it is clear that there are still claims pending in the trial court. The court has continued the matter to set a hearing to assess costs, fines and civil penalties. Furthermore, the November 27 judgment entry that was appealed from does not contain any Civ.R. 54(B) language. Thus, without the inclusion of Civ.R. 54(B) language, there is no final appealable order at this time.

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

{¶8} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

TIMOTHY P. CANNON, J.,

concur.