

90-LW-2220 (5th)

Michael DREES, Plaintiff-Appellee,

v.

MEDICAL BENEFITS MUTUAL LIFE INSURANCE COMPANY, Defendant-Appellant.

No. CA-3518.
5th District Court of Appeals of Ohio, Licking County.
Decided on July 6, 1990.

Civil Appeal from Common Pleas Court, Case 89-S-86442

Faulkner, Garmhausen Keister & Shenk, Sidney, for plaintiff-appellee.

Daniel R. Freytag, Newark, for defendant-appellant.

OPINION

Before PUTMAN, P.J., and MILLIGAN and GWIN, JJ.

OPINION

GWIN, Judge.

Upon review of the record and judgment entry in this case, this appeal is dismissed for want of jurisdiction. The judgment entry appealed from is not final because it fails to determine the rights of the parties in this declaratory action.

If [the trial court's judgment] lacks one of the three qualifications of (a) affecting a substantial right, (b) determining the action, or (c) preventing a judgment, it cannot be a final order, for all three attributes must concur to make it such. (Emphasis added).

Stewart v. Midwestern Indem. Co. (1989), 45 Ohio St.3d 124, citing to Pewter Mug, Inc. v. M.U.G. Enterprises, Inc. & C. (1975), 46 Ohio App.2d 93; also see Chef Italiano Corp. v. Kent State University (1989), 44 Ohio St.3d 86 (an order of a court is a final, appealable order only if the requirements of both Civ.R. 54(B), if applicable and R.C.] 2505.02 are met).

Accordingly, we remand this cause to the trial court for further proceedings according to law.

PUTMAN, P.J., and MILLIGAN, J., concur.

For the reasons stated in the Memorandum-Opinion on file, this appeal is dismissed for want of jurisdiction, and we remand this cause to the trial court for further proceedings according to law.