

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

JEFF JACOCKS,	:	APPEAL NO. C-090112
	:	TRIAL NO. A-0811904
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DEBORAH DENNIS,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Deborah Dennis appeals from the trial court’s entry granting a preliminary injunction to plaintiff-appellee Jeff Jacocks. In 2007, Dennis had approached Jacocks and asked him to invest in a daycare facility that she intended to open. Jacocks expressed interest, and the two began to plan for the facility. The parties did not enter into a written contract, but the record indicates that Jacocks had committed to contribute a substantial amount of capital to the project.

Dennis and Jacocks entered into a lease with Neyer Construction. Both parties provided personal guaranties on the lease and additionally handwrote the word “owner” by their signatures. The personal guaranty provided that the parties were personally liable for approximately \$21,000 a month for 25 years.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Jacocks filed an application for a state license for the daycare facility, which listed Jacocks and Dennis as owners of the business. Dennis next obtained a small-business loan for the project, but Jacocks' name was absent from the loan application. According to Jacocks, he approached Dennis numerous times about drafting an operating agreement, but Dennis continually put him off. Eventually, Jacocks hired an attorney to draft a preliminary operating agreement. When he gave this agreement to Dennis, the relationship between the parties soured.

Shortly thereafter, Dennis hired an attorney who sent Jacocks a certified letter that prohibited him from, in essence, having any involvement with the daycare facility. At that point, Jacocks had contributed \$150 to the business, while Dennis had contributed upwards of \$150,000.

Jacocks filed suit against Dennis, seeking both injunctive relief and monetary damages for breach of contract. He further filed a motion for a preliminary injunction. The trial court granted this motion and ordered Dennis to produce all business records upon reasonable notice, to permit Jacocks access to the premises upon reasonable notice, and to forward to Jacocks 49% of the net profit of the business.

Dennis now appeals and raises three assignments of error for our review.

It is axiomatic that an appellate court only has jurisdiction to review final and appealable orders or judgments.<sup>2</sup> R.C. 2505.02 defines what constitutes a final order, which includes “[a]n order that grants or denies a provisional remedy.”<sup>3</sup> Under this provision, a proceeding for a preliminary injunction is a provisional remedy.<sup>4</sup> But a provisional remedy is only a final order if the following apply: “(a) [t]he order in effect determines an action with respect to the provisional remedy and prevents a judgment

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<sup>2</sup> See R.C. 2505.03(A). See, also, Section 3(B)(2), Article IV, Ohio Constitution.

<sup>3</sup> R.C. 2505.02(B)(4).

<sup>4</sup> R.C. 2505.02(A)(3).

in the action in favor of the appealing party with respect to the provisional remedy; and (b) [t]he appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.”<sup>5</sup>

In this case, the second element is not present. Dennis can be afforded an effective remedy by an appeal following final judgment. Ultimately, Jacocks is seeking a permanent injunction. Nothing in the record indicates that Dennis would be unable to obtain relief from the injunction following an appeal after trial.<sup>6</sup>

Because the trial court’s entry is not a final appealable order, we are without jurisdiction to entertain this appeal. For that reason, the appeal is dismissed.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HENDON, P.J., SUNDERMANN and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on November 4, 2009

per order of the Court \_\_\_\_\_.

Presiding Judge

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<sup>5</sup> R.C. 2505.02(B)(4).

<sup>6</sup> See *Hootman v. Zock*, 11th Dist. No. 2007-A-0063, 2007-Ohio-5619, ¶15. See, also, *Deyerle v. Perrysburg*, 6th Dist. No. WD-03-063, 2004-Ohio-4273, ¶14.