

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

J.I.L. INVESTMENTS,	:	APPEAL NO. C-120365
Plaintiff- Appellant,	:	TRIAL NO. 11CV-09359
vs.	:	<i>JUDGMENT ENTRY.</i>
LAWRENCE KEMPER,	:	
and	:	
YOLANDA ST. CLAIR,	:	
Defendants-Appellees.	:	
	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

J.I.L. Investments (“J.I.L.”) appeals from the judgment of the Hamilton County Municipal Court entering judgment in favor of Lawrence Kemper and Yolanda St. Clair on J.I.L.’s breach of contract claim and on Kemper’s and St. Clair’s counterclaims against J.I.L. The counterclaims against J.I.L. include a tort claim by St. Clair for the intentional infliction of emotional distress, and a specific request for punitive damages and attorney fees based on that “malic[ious]” conduct.

Because this court’s appellate jurisdiction is limited to review of final judgments or orders, we must determine our jurisdiction to proceed before reaching the merits of any appeal. *Inwood Village, Ltd. v. City of Cincinnati*, 1st Dist. No. C-110117, 2011-Ohio-6632, citing *State ex rel. White v. Cuyahoga Metro. Hous. Auth.*, 79 Ohio St.3d 543, 544, 684

N.E.2d 72 (1997). To be final and appealable, an order from the trial court must satisfy the requirements of R.C. 2505.02, and when the action involves multiple claims and the order does not enter a judgment on all the claims, the order must contain a Civ.R. 54(B) certification that there is “no just reason for delay.” *Internat. Bhd. of Elec. Workers, Local Union No. 8 v. Vaughn Industries, L.L.C.*, 116 Ohio St.3d 335, 2007-Ohio-6439, 879 N.E.2d 187, ¶ 7.

Generally, if attorney fees are requested in the original pleadings, an order of the trial court that does not dispose of the attorney-fee claim and does not include a Civ.R. 54(B) certification is not final and appealable. *See id.* at paragraph two of the syllabus. Under Ohio law, a plaintiff may recover attorney fees in tort actions involving malice. *Neal-Pettit v. Lahman*, 125 Ohio St.3d 327, 2010-Ohio-1829, 928 N.E.2d 421, ¶ 14.

In this case, we are unable to discern from the trial court’s judgment whether the court disposed of the claim for attorney fees associated with the intentional-infliction-of-emotional-distress claim. And the trial court’s judgment does not contain Civ.R. 54(B) language. Thus, pursuant to R.C. 2505.02 and Civ.R. 54(B), the trial court’s order is not final and appealable. Accordingly, we dismiss this appeal.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on February 15, 2013
per order of the court _____.
Presiding Judge