

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

RICHARD PATTERSON	:	JUDGES:
	:	Hon. W. Scott Gwin, P. J.
Plaintiff-Appellee	:	Hon. William B. Hoffman, J.
	:	Hon. John F. Boggins, J.
-vs-	:	
	:	Case No. 2002CA00345
THE FORD MOTOR CO.	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Civil Appeal from the Court of Common Pleas, Case No. 2001CV03368

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: February 10, 2003

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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*Hoffman, J.*

{¶1} Defendant-appellant The Ford Motor Co. appeals the decision of the Common Pleas Court of Stark County denying its Motion to Dismiss. Plaintiff-appellee is Richard Patterson.

#### STATEMENT OF THE FACTS AND CASE

{¶2} Appellee is one of four claimants who filed workers compensation claims for an occupational disease described as asbestosis and/or asbestos related pleural disease. Appellant was the employer of all four claimants.

{¶3} All four claims were denied at each of the administrative stages before the Bureau of Workmen's Compensation/Industrial Commission.

{¶4} A combined Notice of Appeal and Complaint was filed on behalf of all four claimants, including appellee.

{¶5} The trial court, in response to appellant's Motion to Dismiss, determined R.C. §4123.512 does not specifically state multiple claimants cannot be joined in a single action and denied appellant's motion.

{¶6} Appellant's sole assignment of error is:

{¶7} "THE TRIAL COURT IMPROPERLY DENIED APPELLANT FORD MOTOR COMPANY'S MOTION TO DISMISS WHERE MULTIPLE INDIVIDUAL CLAIMANTS JOIN THEIR NOTICES OF APPEAL AND COMPLAINTS IN ONE FILING."

{¶8} This case comes to us on the accelerated calendar. App. R. 11.1, which governs accelerated calendar cases, provides, in pertinent part:

{¶9} "(E) Determination and judgment on appeal.

{¶10} "The appeal will be determined as provided by App. R. 11.1. It shall be sufficient compliance with App. R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form.

{¶11} “The decision may be by judgment entry in which case it will not be published in any form.”

{¶12} This appeal shall be considered in accordance with the aforementioned rule.

{¶13} Because the trial court’s entry does not prevent a judgment or otherwise determine the action, we find the order appealed from does not constitute a final appealable order under R.C. 2505.02. Accordingly, we dismiss appellant’s appeal.

By: Hoffman, J. and

Gwin, P.J., concur

Boggins, J. dissents

topic: NO FAO

*Boggins, J., Dissenting*

{¶14} I must respectfully dissent from the majority’s conclusion that a final appealable order is absent.

{¶15} Based upon this Court’s decision in *Donald Hendrick v. The Ford Motor Company* (2003), 5th Dist. No. 2002CA00209, R.C. §4123.512 does not permit the joinder of appeals in workman’s compensation claims by separate claimants.

{¶16} Therefore, the appeals of all but one of the claimants have not been perfected and the trial court lacked jurisdiction to consider the joint appeals as an individual case and the ruling is a final appealable order.

{¶17} The decision reached by the majority has the effect of obviating indirectly the decisions reached by the majority in the above referenced case.

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JUDGE JOHN F. BOGGINS