

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

ARLENE MORGAN,	:	APPEAL NO. C-170429
	:	TRIAL NO. 17CV-08399
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MICHELLE HENDERSON,	:	
	:	
and	:	
NATIONWIDE INSURANCE,	:	
	:	
Defendant-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Arlene Morgan appeals from the entry rendering judgment for the defendant-appellee, Michelle Henderson, and dismissing Henderson’s insurer, Nationwide Insurance Company (“Nationwide”).

Morgan and Henderson were involved in an automobile accident. Morgan alleged that she and a passenger were driving toward Henderson, when a car parked in Henderson’s lane caused Henderson to move over toward Morgan’s car. Morgan’s complaint alleged that the two automobiles made contact while passing, and that Henderson continued driving.

Morgan filed suit in the Hamilton County Municipal Court naming Henderson and Nationwide as defendants. The magistrate dismissed Nationwide and found in favor of Henderson. At the bottom of the magistrate's decision, the trial court adopted the magistrate's decision and entered judgment stating, "THE MAGISTRATE'S DECISION IS ADOPTED AS STATED ABOVE AND ENTERED AS THE JUDGMENT OF THE COURT." Civ.R. 53(D)(4)(e) requires a trial court to enter a judgment or an interim order when it adopts, rejects, or modifies a magistrate's decision. Even if "the judge entirely agrees with the decision of the magistrate, the judge must still separately enter his or her own judgment setting forth the outcome of the dispute and the remedy provided." *Harkai v. Scherba Industries, Inc.*, 136 Ohio App.3d 211, 218, 736 N.E.2d 101 (9th Dist.2000). "The judge is not permitted to conclude the case by simply referring to the magistrate's decision, even though it may appear more expedient to do so." *Id.*

The magistrate's decision in this case was entered as the judgment of the trial court, but a magistrate's decision cannot be a judgment. Civ.R. 54(A) states that a judgment "includes a decree and any order from which an appeal lies as provided in section 2505.02 of the Revised Code. A judgment shall not contain a recital of pleadings, *the magistrate's decision* in a referred matter, or the record of prior proceedings." (Emphasis added.)

Pursuant to R.C. 2501.02 this court only has jurisdiction "to review, affirm, modify, set aside, or reverse *judgments* or final orders." (Emphasis added.) As the court below did not enter a judgment, this court is without jurisdiction and we must dismiss the appeal. *See In re: D.C.*, 1st Dist. Hamilton No. C-170089, 2018-Ohio-2206, ¶ 5. The appeal is dismissed.

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Further, 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.

**CUNNINGHAM, P.J., ZAYAS and DETERS, JJ.**

To the clerk:

Enter upon the journal of the court on June 29, 2018

per order of the court \_\_\_\_\_.  
Presiding Judge