[Cite as *Inland Mobile Home Park & Marina, Inc. v. Carroll Twp. Trustees*, 2013-Ohio-407.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
OTTAWA COUNTY

Inland Mobile Home Park & Marina, Inc.	Court of Appeals No. OT-12-013
Appellant	Trial Court No. 09-CV-604 H
v.	
Carroll Township Trustees, et al.	**DECISION AND JUDGMENT**
Appellee	Decided: February 8, 2013

* * * * *

Douglas A. Wilkins, for appellant.

Michael W. Sandwisch, for appellee.

* * * * *

YARBROUGH, J.

I. Introduction

{¶1} This is an appeal from a judgment of the Ottawa County Court of Common Pleas, granting appellee's, Carroll Township Trustees, motion to quash a subpoena issued

to Michael Sandwisch, the attorney for appellee. We dismiss this appeal for lack of a final and appealable order.

{¶2} On October 8, 2009, appellant, Inland Mobile Home Park & Marina, Inc., filed a complaint against appellee, seeking a declaratory judgment and injunction based on appellee's alleged illegal assessment of a "dock tax." On April 22, 2012, appellant subpoenaed Sandwisch to appear for a deposition on May 10, 2012, only four days before the case was set for a bench trial. Appellee moved to quash the subpoena, arguing that (1) Sandwisch was not a material or necessary witness, (2) that all of the township trustees since the enactment of the dock tax are alive and subject to subpoena or by deposition to testify, and (3) that requiring Sandwisch to testify as a witness would cause a substantial hardship to appellee because he then would be disqualified as its attorney.

{¶3} Appellant opposed the motion, contending that Sandwisch was a material witness. As support, appellant pointed to the minutes of specific public meetings where Sandwisch advised appellee with regard to imposition, collection, and enforcement of the dock tax.

{¶4} The trial court held a hearing on the motion to quash. At the end of the hearing, the court concluded that Sandwisch's advice or thought process in advising appellee was not relevant. Further the court concluded that the relevant information appellant seeks is available through documents related to the tax, or through the

testimony of the township trustees. Accordingly, the trial court granted the motion to quash. A subsequent written judgment was entered on May 10, 2012.

{¶5} Appellant has appealed the May 10, 2012 judgment, raising a single assignment of error:

> The trial court erred in granting Sandwisch's motion to quash Appellant's Subpoena.

II. Analysis

{¶6} We do not reach appellant's assignment of error because we lack jurisdiction over this appeal. Appellate courts have jurisdiction to review only final orders or judgments of inferior courts in their districts. Ohio Constitution, Article IV, Section 3(B)(2); R.C. 2505.02. If an order is not final and appealable, this court has no jurisdiction to review the matter and the appeal must be dismissed.

{¶7} "Generally, discovery orders are interlocutory and not immediately appealable." *Covington v. The MetroHealth Sys.*, 150 Ohio App.3d 558, 2002-Ohio-6629, 782 N.E.2d 624, ¶ 12 (10th Dist.). Specifically, the Ohio Supreme Court has recognized that a trial court's judgment granting a motion to quash a discovery subpoena is not a final and appealable order. *State ex rel. Hastings Mut. Ins. Co. v. Merillat*, 50 Ohio St.3d 152, 154, 553 N.E.2d 646 (1990), overruled on other grounds, *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 639 N.E.2d 83 (1994). Therefore, because the May 10, 2012 judgment granting appellee's motion to quash the subpoena is not a final

and appealable order, we lack jurisdiction over the matter and we must dismiss the appeal.[1]

III. Conclusion

{¶8} This appeal is dismissed for lack of a final and appealable order. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Appeal dismissed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J. _____
JUDGE

Thomas J. Osowik, J. _____
JUDGE

Stephen A. Yarbrough, J. _____
CONCUR.
JUDGE

[1] Notably, the May 10, 2012 judgment does not pertain to the discovery of privileged matter, and therefore it is not a "provisional remedy" under R.C. 2505.02(A)(3).