

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

THIRD FEDERAL SAVINGS & LOAN ASSOCIATION OF CLEVELAND,	:	APPEAL NO. C-140443 TRIAL NO. A-1300688
Plaintiff-Appellant,	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
TIMOTHY D. CALLAHAN,	:	
Defendant-Appellee.	:	

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.

In this foreclosure action, plaintiff-appellant Third Federal Savings & Loan Association of Cleveland (“Third Federal”) has appealed from the trial court’s entry that ordered it to make available the discovery requested by defendant-appellee Timothy Callahan.

In its sole assignment of error, Third Federal argues that the trial court erred in ordering it to produce documents that contain privileged and proprietary information. Before considering the merits of this argument, we must determine whether we have jurisdiction to entertain this appeal. This court’s jurisdiction is limited to the review of orders that are final and appealable and meet the requirements of R.C. 2505.02. Ohio Constitution, Article IV, Section 3(B)(2).

A proceeding concerning the discovery of privileged material is a provisional remedy as defined in R.C. 2505.02(A)(3). *Smith v. Chen*, 142 Ohio St.3d 411, 2015-Ohio-1480, 31 N.E.3d 633, ¶ 5. But an entry granting a provisional remedy is a final order under R.C. 2505.02(B)(4) only if the order “in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy,” and the party appealing demonstrates that they would not be afforded a meaningful remedy following an appeal after final judgment in the action is entered. *Id.*; R.C. 2502.02(B)(4). The Ohio Supreme Court has explicitly held that “[f]or an order granting discovery of privileged matter to be a final order, an appellant must affirmatively establish that an immediate appeal is necessary in order to afford a meaningful and effective remedy.” *Id.* at ¶ 8.

In this case, the trial court’s entry determined the action with respect to the provisional remedy. But Third Federal failed to argue, both before the trial court and in this appeal, that it would not be afforded a meaningful and effective remedy absent an immediate appeal. Because Third Federal has failed to affirmatively establish this requirement, we are without jurisdiction to entertain this appeal.

Therefore, 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., CUNNINGHAM and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on November 23, 2016
per order of the court _____.
Presiding Judge