

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

A. LINETTE DERMINER, EXECUTRIX OF THE ESTATE OF KENNETH DERMINER, DECEASED,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee,	:	CASE NO. 2008-L-058
	:	
- vs -	:	
	:	
FRANK SAILORS, D.O.,	:	
	:	
Defendants,	:	
	:	
RICK LLERENA, D.O.,	:	
	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 06 CV 001784.

Judgment: Appeal dismissed.

Charles V. Longo, Charles V. Longo Co., L.P.A., 25550 Chagrin Boulevard, #320, Beachwood, OH 44122 (For Plaintiff-Appellee).

Patrick F. Smith, Arnold, Todaro, & Welch, 2075 Marble Cliff Office Park, Columbus, OH 43215 (For Defendant-Appellant).

DIANE V. GRENDELL, P.J.

{¶1} On April 15, 2008, appellant, Rick Llerena, D.O., filed a notice of appeal with this court from an April 4, 2008 judgment entry of the Lake County Court of Common Pleas. In that entry, the trial court denied appellant’s motion for stay.

{¶2} On June 17, 2008, this court issued a judgment entry ordering appellant to show cause why this appeal should not be dismissed for lack of a final appealable order since the appealed judgment merely denied appellant's motion to stay. Appellant responded, arguing his appeal should not be dismissed because the issue in this appeal is one of first impression since it directly challenges a decision by the trial court not to give full faith and credit to the order of stay issued by a New Jersey Court.

{¶3} Contrary to appellant's contention, we note that a court of appeals only has jurisdiction over orders that are both final and appealable pursuant to Civ.R. 54(B) and R.C. 2505.02. *Grogan v. Grogan* (2001), 143 Ohio App.3d 548, 556. Ohio courts have determined that the denial of a stay of proceedings is not a final appealable order pursuant to R.C. 2505.02(B)(4). *Holivay v. Holivay*, 8th Dist. No. 89439, Ohio App. LEXIS 5685, 2007-Ohio-6492, at ¶9. See, also, *Community First Bank & Trust v. Dafoe*, 108 Ohio St.3d 472, 477, 2006-Ohio-1503, at ¶32.

{¶4} Parenthetically, we note that the ruling which denied the stay of proceedings does not prevent the filing of a petition for a writ of prohibition. Such petition must be filed in the proper form.

{¶5} Accordingly, since appellant has failed to show good cause why this appeal should not be dismissed, and pursuant to the foregoing cases, this appeal is sua sponte dismissed for lack of jurisdiction.

{¶6} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J., concurs,

COLLEEN MARY O'TOOLE, J., dissents.