

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Old Dominion Freight Line, Inc. v. Indus. Comm.*, Slip Opinion No. 2013-Ohio-4655.]

NOTICE

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SLIP OPINION NO. 2013-OHIO-4655

**THE STATE EX REL. OLD DOMINION FREIGHT LINE, INC., APPELLANT, v.
INDUSTRIAL COMMISSION OF OHIO ET AL., APPELLEES.**

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Appeals—Workers’ compensation—Mandamus—R.C. 2505.02—Appellate court entry remanding case to court of appeals’ magistrate for further review of evidence not final, appealable order—Order did not determine action—Appeal dismissed.

(No. 2012-1193—Submitted September 10, 2013—Decided October 24, 2013.)

APPEAL from the Court of Appeals for Franklin County,
No. 11AP-350, 2012-Ohio-2403.

Per Curiam.

{¶ 1} Appellant, Old Dominion Freight Line, Inc., filed a complaint in the Franklin County Court of Appeals for a writ of mandamus that would require

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the appellee Industrial Commission to vacate its award of permanent-total-disability compensation to appellee Robert L. Mason.

{¶ 2} A magistrate determined that the court should issue a writ ordering the commission to vacate its order granting permanent-total-disability benefits. Both Mason and the Industrial Commission filed objections to the magistrate's report. The court of appeals sustained the objections and remanded the case to the magistrate for further review of the evidence to afford Old Dominion the full review available in mandamus. Old Dominion filed a notice of appeal from the court of appeals' journal entry of June 5, 2012.

{¶ 3} Because the court of appeals' journal entry did not determine the action, it is not a final order pursuant to R.C. 2505.02. *See VIL Laser Sys., L.L.C. v. Shiloh Industries, Inc.*, 119 Ohio St.3d 354, 2008-Ohio-3920, 894 N.E.2d 303, ¶ 8-9. We therefore sua sponte dismiss this cause for lack of a final, appealable order.

Cause dismissed.

O'CONNOR, C.J., and PFEIFER, O'DONNELL, LANZINGER, KENNEDY, and O'NEILL, JJ., concur.

FRENCH, J., not participating.

Eastman & Smith, Ltd., Mark A. Shaw, and Garrett M. Cravener, for appellant.

Connor, Evans & Hafenstein, L.L.P., Nicole E. Rager, and Katie W. Kimmet, for appellee Robert L. Mason.

Michael DeWine, Attorney General, and Eric Tarbox, Assistant Attorney General, for appellee Industrial Commission.
