

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

Howell Tax Accounting, Inc. v. Monto

2026-Ohio-2419 · No. 25AP-1006 · Decided June 25, 2026

SUMMARY

The Ohio Tenth District Court of Appeals dismissed the appeal for lack of a final, appealable order. The trial court’s judgment on the pleadings dismissed the requested constructive-trust remedy but did not resolve any underlying causes of action, and therefore did not satisfy R.C. 2505.02(B)(1); the Civ.R. 54(B) certification was consequently irrelevant.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Per curiam; Boggs, P.J.; Beatty Blunt, J.; Mentel, J.
JURISDICTION	Ohio Court of Appeals, Tenth Appellate District
DECIDED	June 25, 2026
DOCKET	25AP-1006
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants appealed from a trial-court decision granting appellees judgment on the pleadings as to appellants' request for a constructive trust. Appellees moved to dismiss the appeal for lack of subject-matter jurisdiction on the ground that the order was not final and appealable.
STANDARD OF REVIEW	The court applied the jurisdictional requirement that an appellate order be final and appealable under R.C. 2505.02; no separate standard of review was expressly stated.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Howell Tax Accounting, Inc., Estate of Beth Evelyn Howell v. Scott Monto, Dan Szymczak, The Monto Group, LLC, The Legacy Tax Advisory Group, LLC

TOPICS

- final judgment rule
- appellate jurisdiction
- motion for judgment on the pleadings
- constructive trust
- civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

contract law

equity

QUESTIONS PRESENTED

1. Whether the trial court's order granting judgment on the pleadings as to appellants' requested constructive trust was a final, appealable order under R.C. 2505.02(B)(1).
2. Whether Civ.R. 54(B) certification could make the order appealable when the order did not otherwise qualify as final under R.C. 2505.02.

HOLDINGS

1. An order that precludes a party from obtaining a constructive trust, without resolving any underlying cause of action or a separate and distinct branch of the case, is not a final, appealable order under R.C. 2505.02(B)(1).
2. Civ.R. 54(B) language is relevant only after an order independently qualifies as final and appealable under R.C. 2505.02; it cannot make a nonfinal order appealable.

KEY QUOTATIONS

“If an order is not final, then a court of appeals has no jurisdiction over it.” (§ 7)

“The trial court did not resolve any of appellants’ causes of action.” (§ 12)

“The presence of a Civ.R. 54(B) certification only matters if a judgment first qualifies as a final, appealable order under R.C. 2505.02.” (§ 13)

FACTUAL BACKGROUND

Appellants asserted several contract, declaratory, and equitable claims against appellees, including a request for a constructive trust. The trial court granted judgment on the pleadings as to the constructive-trust remedy but did not resolve appellants' underlying causes of action. The remaining claims continued to pend before the trial court.

PROCEDURAL HISTORY

Appellants sued appellees asserting claims for declaratory judgment, further relief, equitable relief, anticipatory repudiation, breach of contract, and unjust enrichment. The trial court denied the parties' other pending motions but granted appellees judgment on the pleadings in part, dismissing the request for a constructive trust while leaving the causes of action pending. Although the original entry included Civ.R. 54(B) language, the trial court later issued a nunc pro tunc entry deleting that language. The Court of Appeals granted appellees' motion and dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Stewart v. Solutions Community Counseling & Recovery Ctrs., Inc., 2022-Ohio-2522, ¶ 4
- Mill Creek Metro. Park Dist. Bd. of Commrs. v. Less, 2023-Ohio-2332, ¶ 8
- IBEW, Local Union No. 8 v. Vaughn Indus., L.L.C., 2007-Ohio-6439, ¶ 7
- National City Commercial Capital Corp. v. AAAA at Your Serv., Inc., 2007-Ohio-2942, ¶ 7
- Hamilton Cty. Bd. of Mental Retardation & Dev. Disabilities v. Professionals Guild, 46 Ohio St.3d 147, 153 (1989)
- McConnell v. Sexton, 2022-Ohio-1894, ¶ 10 (12th Dist.)
- Fertec, LLC v. BBC&M Eng., Inc., 2009-Ohio-5246, ¶¶ 11-12 (10th Dist.)
- Newcomer v. Nationwide Ins. Ent., 2003-Ohio-960, ¶ 12 (10th Dist.)
- Estate of Brown v. McCall, 2023-Ohio-780, ¶¶ 16, 18 (10th Dist.)
- Kierland Crossing, LLC v. Ruth's Chris Steak House, Inc., 2011-Ohio-5626, ¶ 18 (10th Dist.)
- Estate of Cowling v. Estate of Cowling, 2006-Ohio-2418, ¶ 19
- McOmber v. Liebrecht, 2023-Ohio-2019, ¶ 9, fn. 1 (3d Dist.)
- Bonner v. Delp, 2021-Ohio-3772, ¶ 93 (6th Dist.)
- Kobal v. Edward Jones Secs., 2021-Ohio-1088, ¶ 14 (8th Dist.)
- Kostyo v. Kaminski, 2013-Ohio-3188, ¶ 17 (9th Dist.)

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