

[Cite as *Hudson v. Guarantee Title & Trust Co.*, 2009-Ohio-5545.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Mary Jo Hudson, Superintendent, Ohio Department of Insurance, in her capacity as Liquidator of the Guarantee Title and Trust Co.,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 08AP-1047
v.	:	(C.P.C. No. 08CVH07-10725)
	:	
The Guarantee Title and Trust Co.,	:	(ACCELERATED CALENDAR)
	:	
Defendant-Appellee,	:	
	:	
(Christopher Likens and Hiram Blomquist,	:	
	:	
Defendants-Appellants).	:	
	:	
Mary Jo Hudson, Superintendent, Ohio Department of Insurance, in her capacity as Liquidator of the Guarantee Title and Trust Co.,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 08AP-1048
v.	:	(C.P.C. No. 08CVH07-10725)
	:	
The Guarantee Title & Trust Co.,	:	(ACCELERATED CALENDAR)
	:	
Defendant-Appellee,	:	
	:	
(Nations Holding Co., Inc. et al.,	:	
	:	
Defendants-Appellants).	:	
	:	

D E C I S I O N

Rendered on October 20, 2009

Nelson Levine de Luca & Horst, LLC, and Randall S. Rabe, for appellants Christopher Likens and Hiram Blomquist.

Allen Kuehnle Stovall & Neuman LLP, Douglas L. Hertlein, Todd H. Neuman, and Lisa L. Norris, for appellants Nations Holding Company and Texas Nations Title Agency, Inc.

Richard Cordray, Attorney General; Kohrman Jackson & Krantz PLL, Valoria C. Hoover and David S. Blocker, special counsel for appellee.

ON APPLICATION FOR RECONSIDERATION

TYACK, J.

{¶1} Appellants Nations Holding Co., Hiram Blomquist, and Christopher Likens have asked this court to reconsider our decision of September 10, 2009, entitled *Mary Jo Hudson, Superintendent, Ohio Dept. of Ins. v. Guarantee Title and Trust Co.*, 10th Dist. Nos. 08AP-1047 and 08AP-1048, 2009-Ohio-4835. Appellants have also requested that this court convene en banc to resolve an alleged conflict with prior decisions of this court. For the reasons that follow, we deny both requests.

{¶2} Applications for reconsideration are governed by App.R. 26. The test that is generally applied to an application for reconsideration is whether the application calls attention to an obvious error in the decision or raises an issue that the court did not properly consider in the first instance. *Fleisher v. Ford Motor Co.*, 10th Dist. No. 09AP-139, 2009-Ohio-4847, ¶2. App.R. 26(A) was not designed for use in instances where a party simply disagrees with the conclusions and logic of the appellate court. *In re Estate of Phelps*, 7th Dist. No. 05 JE 19, 2006-Ohio-1471, ¶3.

{¶3} Here, appellants sought to challenge an order of the liquidation court ordering appellants, as former directors, officers, managers, owners, and persons in control of Guarantee Title and Trust Company ("GTT") to make available to the liquidator GTT's records and information. This court dismissed the appeal for lack of jurisdiction as it was not a final appealable order. Although appellants attempted to characterize the order as a contempt order, there was no finding of contempt, and there was no sanction placed upon appellants. The order merely required appellants to produce records with a warning for future noncompliance. Such orders are interlocutory and are not final appealable orders.

{¶4} Appellants also attempted to frame the appeal as a challenge to certain factual findings in the liquidation order. However, appellants are not appealing the liquidation of GTT. Instead, appellants argue that because liquidation orders have been held to be final appealable orders under some circumstances, they have an unfettered right to appeal any aspect of the liquidation order. By this approach, appellants have attempted to circumvent the continuing jurisdiction of the liquidation court to enforce its own orders.

{¶5} Appellants contend that our decision is in conflict with prior decisions of this court, namely *Ratchford v. Proprietors' Ins. Co.* (1995), 103 Ohio App.3d. 192; *Fabe v. Columbus Ins. Co.* (1990), 68 Ohio App.3d 226; and *Jump v. Manchester Ins. Indemn. Co.* (July 27, 1976), 10th Dist. No. 76AP-191. Appellants argue that because liquidation orders have been held to be final appealable orders under some circumstances, they

have an unfettered right to appeal any aspect of the liquidation order. We disagree. None of the cases cited by appellants are even remotely on point.

{¶6} *Ratchford* involved the application of a prior version of the liquidation statute. Also, this court held that the liquidation court's determination on the valuation of a partially allowed claim was a final appealable order. This is a completely different issue than that of appellants seeking to challenge their duty to provide records related to the liquidation.

{¶7} *Fabe* was an appeal from the liquidation court ordering a stay of an adversarial proceeding and compelling binding arbitration. It is similarly inapplicable to this case. Moreover, *Fabe* was overruled by this court in *Benjamin v. Pipoly*, 155 Ohio App.3d 171, 2003-Ohio-5666, ¶43.

{¶8} Finally *Jump* was decided in 1976 under outdated statutes. The court held that the appellants' financial interest in the outcome of the proceedings conferred an implied right of appeal.

{¶9} Under the circumstances of this case, appellants have failed to demonstrate that the trial court's order affects a substantial right of appellants or, that in the absence of immediate review, they will be denied effective relief in the future. R.C. 2505.02(B). Appellants have a remedy in the liquidation court regarding their duty to produce records.

{¶10} Having found no conflict exists with this court's prior decisions, there is no reason for an en banc proceeding. The application for reconsideration is denied, and the motion requesting an en banc proceeding is also denied.

{¶11} Based on the forgoing, appellants' application for reconsideration and for an en banc proceeding is denied.

*Application for reconsideration
and en banc proceeding denied.*

McGRATH and CONNOR, JJ., concur.
