

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-3529-20**

ELLEN HEINE, executrix  
of the estate of ANN  
SCHILDKNECHT,

Plaintiff-Appellant,

v.

TOWNSHIP OF MONTCLAIR,

Defendant-Respondent.

---

Submitted November 30, 2022 – Decided December 22, 2022

Before Judges Gooden Brown and DeAlmeida.

On appeal from the Tax Court of New Jersey, Docket  
Nos. 011935-2020 and 014192-2015.

Ellen Heine, appellant pro se.

Eric M. Bernstein & Associates, LLC, attorneys for  
respondent (Dominic P. DiYanni, on the brief).

PER CURIAM

Plaintiff Ellen Heine appeals from the July 2, 2021 order of the Tax Court dismissing a previously issued order to show cause concerning the need for Heine to retain counsel. We dismiss the appeal for want of jurisdiction.

I.

In 2015, Ann Schildknecht filed a complaint in the Tax Court challenging a judgment of the Essex County Board of Taxation (Board) affirming the local property tax assessment for tax year 2015 on a parcel she owned in defendant Township of Montclair. Schildknecht died in 2018 while the matter was pending. Heine moved to intervene, arguing she had standing to challenge the assessment because she has a recorded mortgage lien on the property and pays the local property taxes on the parcel. She later qualified as Executrix of Schildknecht's estate and was substituted as plaintiff in that capacity.

In 2020, Heine, acting as Executrix, filed a complaint in the Tax Court challenging a judgment of the Board affirming the local property tax assessment on the parcel for tax year 2020. An October 28, 2020 notice from the Tax Court management office informed Heine that she could not appear as a self-represented party in her capacity as Executrix, and was required within ten days to inform the court of the name of the attorney she had retained to represent her in the tax year 2020 matter. Heine did not comply with that notice.

On February 23, 2021, the court entered an order to show cause why both the tax year 2015 and tax year 2020 matters should not be dismissed for Heine's failure to retain counsel to represent her in her capacity as Executrix. An attorney subsequently filed a notice of appearance on behalf of the Estate in both matters. On July 2, 2021, the court entered an order dismissing the order to show cause. Both matters are pending in the Tax Court.

This appeal follows. Heine, appearing without counsel, argues that Rule 1:21-1(c), which requires entities to be represented by counsel, contains an exception for "R. 6:11 (appearances in small claims actions)" that should apply to matters in the Tax Court's small claims division. See R. 8:11. She argues that the court "should allow a person (or executrix) to substitute as a pro se for another individual who was appearing pro se, but who died before the conclusion of the case." In addition, Heine argues that an estate is not an "entity" within the meaning of Rule 1:21-1(c).

## II.

Under Rule 2:2-3(a)(1), an appeal as of right may be taken to this court only from a "final judgment" of the Tax Court. "To be a final judgment, an order generally must 'dispose of all claims against all parties.'" Janicky v. Point Bay Fuel, Inc., 396 N.J. Super. 545, 549-50 (App. Div. 2007) (quoting S.N. Golden

Estates, Inc. v. Cont'l Cas. Co., 317 N.J. Super. 82, 87 (App. Div. 1998)). "This rule, commonly referred to as the final judgment rule, reflects the view that 'piecemeal [appellate] reviews, ordinarily, are [an] anathema to our practice.'" Id. at 550. (quoting Frantzen v. Howard, 132 N.J. Super. 226, 227-28 (App. Div. 1975)).

We review interlocutory orders only on leave granted pursuant to Rule 2:2-4. Such leave, requested by motion, is "highly discretionary" and "customarily exercised only sparingly." State v. Reldan, 100 N.J. 187, 205 (1985). "Appeals from interlocutory orders are permitted as of right only when the Rules expressly permit them." Vitanza v. James, 397 N.J. Super. 516, 517 (App. Div. 2008).

The July 2, 2021 order is interlocutory. It does not resolve all issues as to all parties in either of the tax year 2015 or tax year 2020 matters. The order does not fall within a rule permitting review of an interlocutory order as of right. Heine did not move for leave to appeal. Nor did the township "discharge[] its responsibility to move for dismissal of" Heine's notice of appeal. See Millbrook Tax Fund, Inc. v. P.L. Henry & Assocs., Inc., 344 N.J. Super. 49, 51 (App. Div. 2001). While we have on occasion granted leave to review interlocutory orders in the absence of a motion, we decline to do so here. We need not consider an

appeal of an interlocutory order "merely because the respondent did not move to dismiss it and it was fully briefed." Vitanza, 397 N.J. Super. at 519.

Dismissed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION