Circuit Court for Baltimore City
Case No. 24-X-16-000162

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1455

September Term, 2017

UNION CARBIDE CORPORATION

v.

RONALD VALENTINE, et al.

Wright,
Graeff,
Shaw Geter,

JJ.

Opinion by Wright, J.

Filed: December 6, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises out of an asbestos products liability action filed by the legal heirs of Ronald Valentine ("appellees") against Union Carbide Corporation ("appellant") in the Circuit Court for Baltimore City. Union Carbide appeals the circuit court's order granting appellees' motion to compel, which requires Union Carbide to make specific discovery disclosures.[1] Union Carbide presents the following questions for our review, which we have renumbered and consolidated for clarity:[2]

1. Whether this Court has jurisdiction over the appeal?

[1] Union Carbide specifically challenges the required disclosure of:

> Three discrete, narrow categories of items . . . : (1) joint defense agreements concerning [allegedly] unrelated matters; (2) communications between Union Carbide's counsel and Dr. David Bernstein, a consulting expert who is not . . . a testifying expert for Union Carbide; and (3) deposition testimony and written discovery responses of Union Carbide that were generated in litigation against its insurance company and are subject to protective and sealing orders issued by the Supreme Court of New York[.]

[2] Union Carbide presented its questions to the court as follows:

1. Did the Circuit Court err by failing to protect joint defense agreements, including the existence and terms of such agreement, from discovery?

2. Did the Circuit Court err by failing to protect correspondence between Union Carbide's counsel and a consulting expert, Dr. David Bernstein, from discovery?

3. Did the Circuit Court err by failing to acknowledge or give effect to protective and sealing orders issued by the Supreme Court of New York?

4. Did this Court have appellate jurisdiction under the collateral order doctrine?

2. Whether the circuit court erred by failing to protect joint defense agreements from discovery?

3. Whether the circuit court erred by failing to protect correspondence between Union Carbide and a consulting expert from discovery?

4. Whether the circuit court erred by failing to give effect to protective and sealing orders issued by the Supreme Court of New York?

For the reasons to follow, we answer the first question in the negative and decline to reach Union Carbide's other questions.

BACKGROUND

On November 9, 2016, appellees filed an amendment by interlineation to add Union Carbide as a party-defendant to a pending lawsuit that appellees filed about seven months earlier.[3] On November 10, 2016, appellees served discovery on Union Carbide. Appellees specifically sought discovery in three areas that Union Carbide objected to: (1) joint defense agreements; (2) communication on scientific tests and studies funded by or performed at Union Carbide's request; and (3) insurance coverage litigation between Union Carbide and its insurance carriers.

Though the deadline for Union Carbide to respond to appellees' discovery request was December 26, 2016, Union Carbide did not timely respond. Rather, on March 2, 2017, Union Carbide served appellees a document entitled "Union Carbide Corporation's

[3] Appellees brought seven counts against Union Carbide: (I) negligence; (II) strict liability; (III) breach of warranty; (IV) aiding and abetting and conspiracy; (V) willful and wanton conduct; (VI) loss of consortium; and (VII) wrongful death.

Objections and Responses to Plaintiffs' Interrogatories and Document Production Requests . . . ," objecting to appellees' discovery requests in their entirety.[4]

Appellees subsequently filed a motion to compel Union Carbide to "produce fully responsive answers to interrogatories and documents."[5] Union Carbide opposed the motion, and appellees subsequently filed a reply. On July 19, 2017, the circuit court heard argument on the motion to compel discovery responses from Union Carbide.

On August 7, 2017, the circuit court issued an order granting appellees' motion to compel and denying appellees' opposition to the motion to compel. After the circuit court's order was issued, Union Carbide communicated to appellees "that it [had] no agreement for joint representation in this case." Additionally, "Union Carbide [provided] [a]ppellees with the exact amounts it paid [its consulting expert]; the pages of raw data and protocols for [the expert's studies]; its retainer agreement with [its expert]; and a

[4] Union Carbide originally objected to appellees' requests in their entirety because, according to Union Carbide, "the complaint contained no allegations of fact implicating [Union Carbide] and, thus, the requests were, by their very nature, outside the permissible scope of discovery under [Md.] Rule 2-402(a)." After communicating about the requests with appellees' counsel, "[Union Carbide] amended its responses, objecting also because the materials [a]ppellees sought were privileged, protected from disclosure, and irrelevant."

[5] In their motion to compel, appellees' primary contention regarding the discoverability of the information sought was that none of the information sought was privileged on the basis that scientific research that Union Carbide funded was performed by "consulting experts."

privilege log identifying communications between [Union Carbide] and its counsel." The communications were not disclosed.

Ten days later, on August 17, 2017, Union Carbide filed a motion for clarification and protective order. The protective order related to the three outstanding materials that appellees sought: (1) joint defense agreements; (2) communication on scientific tests and studies funded by or performed at Union Carbide's request; and (3) insurance coverage litigation between Union Carbide and its insurance carriers. On September 11, 2017, the circuit court denied Union Carbide's motion.

On September 20, 2017, Union Carbide filed a notice of appeal with this Court, appealing the circuit court's August 7, 2017, and September 11, 2017 orders. On October 11, 2017, appellees filed a motion to dismiss this appeal contending that the appeal was untimely and that the orders at issue were non-appealable interlocutory discovery orders. This Court denied appellees' motion to dismiss without prejudice and with leave to seek dismissal of Union Carbide's appeal in appellees' brief.

DISCUSSION

I. Jurisdiction Over the Appeal

Appellees assert that this Court does not have jurisdiction over this appeal for two reasons. First, appellees aver that Union Carbide did not timely file its notice of appeal, rendering it "time-barred." Second, appellees contend that the circuit court's ruling is a "non-appealable interlocutory discovery ruling." In response, Union Carbide argued that

its appeal was timely filed and that the appeal meets the requirements of the collateral order doctrine.

A. *Timeliness of the Appeal*

According to Md. Rule 8-202(c), "[i]n a civil action, when a timely motion is filed pursuant to [Md.] Rule . . . 2-534,[6] the notice of appeal shall be filed within 30 days after entry of . . . an order . . . disposing" of a Md. Rule 2-534 motion. In other words, when a motion is timely filed under Md. Rule 2-534, "the time the [party has] to note an appeal is suspended until after the motion is decided." *Pickett v. Noba,* 114 Md. App. 552, 556 (1997).

Pursuant to the Maryland Rules, the circuit court's August 10, 2017 order was an "action decided by the court," as it determined the parties' rights as it pertained to the materials sought in discovery. *See* Md. Rule 2-534; *see also B&K Rentals & Sales Co.,*

[6] **Md. Rule 2-534. Motion to alter or amend a judgment – Court decision.**

> In an action decided by the court, on motion of any party filed within *ten days* after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment filed after the announcement or signing by the trial court of a judgment but before entry of the judgement on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

(Emphasis added).

Inc. v. Universal Leaf Tobacco Co., 73 Md. App. 530, 534 (1988) (explaining that the court's ruling on a motion for judgment notwithstanding the verdict was "an action decided by the court.") (*rev'd on other grounds*, 319 Md. 127 (1990)). In response to the order, Union Carbide timely filed its motion for clarification and protective order on August 17, 2017. Though it was not labeled a "motion to alter or amend," we will treat Union Carbide's motion as a Md. Rule 2-534 motion. *See White v. Prince George's County*, 163 Md. App. 129, 140 (2005) ("[A] motion to revise a court's judgment, 'however labeled, filed within ten days after the entry of a judgment will be treated as a [Md.] Rule 2-534 motion . . . .'") (citation omitted). The circuit court disposed of Union Carbide's motion in its September 11, 2017 order. Because Union Carbide's [Md.] Rule 2-534 motion was timely filed, Union Carbide had 30 days from the disposition of that motion to file its notice of appeal of the August 10, 2017, and the September 11, 2017 orders. Union Carbide complied with this deadline when it filed its notice of appeal on September 20, 2017. Therefore, we disagree with appellees' assertion that this appeal was time-barred and conclude that the appeal was timely filed.

B. *Application of the Collateral Order Doctrine*

According to Md. Code (1973, 2013 Repl. Vol.), Courts and Judicial Proceedings Article) ("CJP") § 12-301, "a party may appeal from a final judgment entered in a civil . . . case by a circuit court." This right "exists from a final judgment entered by a court in the exercise of original, special, limited, statutory jurisdiction, unless in a particular case

the right of appeal is expressly denied by law." *Id*. Generally, "the right to seek appellate review of a trial court's ruling ordinarily must await the entry of a final judgment that disposes of all claims against all parties[.]" *Salvagno v. Frew*, 388 Md. 605, 615 (2005).[7] This is known as a the "final judgment rule." *Mitchel Properties v. Real Estate Title*, 62 Md. App. 473, 482 (1985).

However, the Court of Appeals has explained that there are only three exceptions to the final judgment rule: "appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under [Md.] Rule 2-602; and appeals from interlocutory rulings allowed under the common law collateral order doctrine." *Id*; *see also Addison v. State*, 173 Md. App. 138, 153 (2007). Since neither party contends that either of the first two exceptions apply, our analysis will focus on the application of the collateral order doctrine. This Court has previously explained the collateral order doctrine as follows:

> The collateral order doctrine, recognized by the Supreme Court in *Cohen v. Beneficial Industrial Loan Corporation*, 337 U.S. 541 (1949), permits the prosecution of an appeal from a narrow class of orders, referred to as collateral orders, which are offshoots of the principal litigation in which they are issued and which are immediately appealable as final judgments without regard to the posture of the case. For a non-final judgment to be appealable under this narrow collateral order exception, each of the following four elements must be satisfied:
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> (1) it must conclusively determine the disputed question;

[7] As the circuit court's discovery order does not resolve the products liability claims at issue in this dispute, it does not "dispose of all claims" against Union Carbide and therefore is not a final judgment.

(2) it must resolve an important issue;

(3) it must be completely separate from the merits of the action; and

(4) it must be effectively unreviewable on appeal from a final judgment.

In Maryland, the four requirements of the collateral order doctrine are very strictly applied, and appeals under the doctrine may be entertained only in extraordinary circumstances.

Addison, 173 Md. App. at 153-54 (internal citations and quotations omitted).

Maryland's appellate courts have made it clear that the right to seek an interlocutory appeal under the collateral order doctrine is "a limited one." *Tamara A. v. Montgomery County Dept. of Health and Human Servs.*, 407 Md. 180, 191 (2009). "[I]n the civil context, it is limited, at best, to an immunity that can be resolved as a pure issue of law, without the court having to assume any material facts or inferences that are in dispute." *Id.* (citation omitted).

When applied to discovery orders, the right to seek an interlocutory appeal is even more limited. As the Court of Appeals previously stated, "[i]t is firmly settled in Maryland that, except in one very unusual situation,[8] interlocutory discovery orders do

[8] The Court of Appeals has explained that "[t]he 'singular situation,' in which this Court has held that interlocutory discovery orders are appealable under the collateral order doctrine, involves trial court orders permitting the depositions of high level governmental decision makers for the purpose of 'extensively probing . . . their individual decisional thought processes.'" *St. Joseph Medical Center, Inc. v. Cardiac Surgery Associates, P.A.*, 392 Md. 75, 88 (2006) (alteration in original) (citation omitted).

not meet the requirements of the collateral order doctrine and are not appealable under that doctrine." *St. Joseph Medical Center, Inc. v. Cardiac Surgery Associates, P.A.*, 392 Md. 75, 87 (2006); *see also In re Foley*, 373 Md. 627, 634 (2003) ("This Court has consistently held that discovery orders, being interlocutory in nature, are not ordinarily appealable prior to a final judgment terminating the case in the trial court.") (citation omitted). This is so for two reasons. First, discovery orders typically do not meet the third requirement of the collateral order doctrine, "as they generally are not completely separate from the merits of the lawsuit." *St Joseph Medical Center, Inc.*, 392 Md. at 87 (explaining that "a typical discovery order [is] aimed at ascertaining critical facts upon which the outcome of the . . . controversy might depend[.]") (alteration in original) (citations omitted). In addition, since "[a] party aggrieved by a discovery order and aggrieved by the final judgment may challenge the discovery ruling on appeal from the final judgment[,]" discovery orders generally do not satisfy the fourth requirement, either. *Id*.

Applying the collateral order doctrine's requirements to the facts of this case requires adherence to the "firmly settled" principle that interlocutory appeals are not available for discovery orders. First, we will assume *arguendo* that the first and second requirements have been satisfied, as appellees do not make any argument to the contrary.

As to the third requirement, we conclude that the materials at issue in the discovery order are *not* "completely separate from the merits of the action." The joint

defense agreements, communications between Union Carbide's counsel and Dr. Bernstein, and sealed insurance litigation are all related to the ongoing development of defenses to be relied upon in this case. Union Carbide admits as much by arguing that disclosure of these materials would be highly prejudicial in the other personal injury asbestos cases pending against it in other jurisdictions. We fail to see how these disclosures could be "completely separate from the merits" of the instant action, yet could also be highly prejudicial to Union Carbide in this and other, similar product liability cases. As such, the third requirement of the collateral order doctrine has not been satisfied.

Regarding the fourth requirement of the collateral order doctrine, Union Carbide contends that an eventual appeal from final judgment would be ineffective because the circuit court's order would require it to disclose allegedly privileged material. Union Carbide further argues that since it is "currently defending 18,000+ asbestos cases nationwide," disclosure of allegedly privileged information would "effectively [obliterate]" its privilege for "all pending and future cases in every jurisdiction." In response to these arguments, appellees assert that a post-judgment appeal is sufficient to protect Union Carbide's rights and privileges, and that the fourth requirement is therefore not satisfied.

We find *Kurstin v. Bromberg Rosenthal, LLP*, 420 Md. 466 (2011), to be instructive in our analysis of the fourth requirement. In *Kurstin*, the Court of Appeals

considered whether an interlocutory discovery order compelling production of allegedly privileged attorney-client communications was appealable. *Kurstin*, 420 Md. at 474-80. In holding that such an order was not appealable, the Court explained that "postjudgment appeals generally suffice to protect the rights of litigants and assure the vitality of the attorney-client privilege." *Kurstin*, 420 Md. at 476 (quoting *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 109 (2009)).

In conducting its analysis, the Court of Appeals adopted a significant portion of the Supreme Court's opinion in *Mohawk Industries, Inc.*, 558 U.S. at 100.[9] Specifically, the Court explained that "'*[t]he crucial question . . . is not whether an interest is important in the abstract; it is whether deferring review until final judgment* so imperils the interest as to justify *the cost of allowing intermediate appeal of the entire class* of relevant orders.'" *Kurstin*, 420 Md. at 476 (emphasis in original) (quoting *Mohawk Industries*, 558 U.S. at 108). In answering that "crucial question," the Court went on to state that:

> In our estimation, post-judgment appeals generally suffice to protect the rights of litigants and assure the vitality of the attorney-client privilege. Appellate courts can remedy the improper disclosure of privileged material in the same way they remedy a host of other erroneous evidentiary rulings:

[9] In *Mohawk Industries*, the Supreme Court considered "whether disclosure orders adverse to the attorney-client privilege qualify for immediate appeal under the collateral order doctrine." 558 U.S. at 103. The Court of Appeals has previously stated that "*Mohawk Industries* is instructive, if not binding, because . . . [it] addresses appellate jurisdiction over final decisions arising from 28 U.S.C. § 1291, which is read in *pari materia* with [CJP] § 12-301." *Harris v. State*, 420 Md. 300, 323 n.22 (2011) (citations omitted).

> by vacating an adverse judgment and remanding for a new trial in which the protected material and its fruits are excluded from evidence.
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> It is clear that the breach of the testimonial privilege occurs not when the information is revealed but when it is used, directly or derivatively, at trial.
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> That a fraction of orders adverse to the attorney-client privilege may nevertheless harm individual litigants in ways that are only imperfectly reparable does not justify making all such orders immediately appealable as of right under [28 U.S.C.] § 1291.
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> In sum, we conclude that the collateral order doctrine does not extend to disclosure orders adverse to the attorney client privilege. Effective appellate review can be had by other means.

Kurstin, 420 Md. at 476-77 (cleaned up).

Finally, the Court explained that "Maryland's approach to the non-appealability of a discovery ruling compelling the disclosure of information presumably protected by the attorney-client privilege has been as *generic and categorical* as has been that of the Supreme Court." *Kurstin*, 420 Md. at 477 (emphasis added). The Court ultimately held that the interlocutory discovery order was not appealable because the order "decided an issue that (1) [was] inextricably intertwined with the merits of the action, and (2) [would] be reviewable on appeal from a final judgment." *Id*. at 480.

We agree with Union Carbide's assertion that "[n]othing distinguishes this case from *Kurstin*."[10] Here, just as was the case in *Kurstin*, Union Carbide challenges the circuit court's interlocutory order compelling the disclosure of allegedly privileged materials. It has been firmly established, both by this Court and the Supreme Court of the United States, that post-judgment review is the proper means for handling such an appeal. *See Kurstin*, 420 Md. at 477; *see also Mohawk Industries*, 558 U.S. at 114; and *see St. Joseph Medical Center, Inc.*, 392 Md. at 87. In light of this precedent, we hold that the discovery order at issue here is reviewable on an appeal from final judgment, and that this Court therefore does not have jurisdiction over the instant appeal.

Union Carbide's attempts to fit this case within the confines of the collateral order doctrine do not alter our conclusion. Union Carbide primarily contends that the disclosure of allegedly privileged materials here will prejudice Union Carbide in

[10] In addition to the arguments discussed below, Union Carbide presents an additional argument related to the third requirement of the collateral order doctrine in an attempt to distinguish the instant case from *Kurstin*. Specifically, Union Carbide contends that since "*Kurstin* involved alleged legal malpractice and disputed fees . . . the purportedly privileged advice of counsel was the very foundation of the claim." In contrast, Union Carbide asserts that "the discovery at issue has no *direct* connection to [a]ppellees' claims." (Emphasis added).

Union Carbide's argument mischaracterizes the third requirement of the collateral order doctrine. That requirement states that the issue on appeal "must be completely separate from the merits of the action." *Addison*, 173 Md. App. at 154. In other words, if there is *any* connection between the issue being appealed and the merits, the requirement will not be satisfied. The third requirement does not mandate, as Union Carbide seems to suggest, that there be a *direct connection* between the issue and the merits of the case.

"18,000+ asbestos cases nationwide,"[11] and that such prejudice is grounds for this Court to conclude that the issue is unreviewable on appeal from final judgment.

This argument is unavailing. First, the fact that materials have been disclosed through discovery does not necessarily mean that such information will be admissible at this trial, or at any other trial pending against Union Carbide.[12] Nor does this Court have a basis to assume that disclosure in this case will inevitably lead to the dissemination of the contested materials throughout the country. Though Union Carbide contends that "the harm is the disclosure itself," the Court of Appeals concluded just the opposite in *Kurstin* when it explained that "the breach of the testimonial privilege occurs not when the information is revealed, but when it is used . . . at trial."[13] *Kurstin*, 420 Md. at 476-77. (Citation omitted).

[11] Union Carbide baldly asserts that it has appealed the discovery order "to preclude the disclosure and subsequent widespread dissemination of privileged material to attorneys and litigants in thousands of other asbestos-related cases against [it]." However, Union Carbide has provided no evidence on the record related to the number of cases currently pending against it, nor any evidence related to the possibility that the disclosed material may be transferred among litigants across the country.

[12] The discovery rules are "broad and comprehensive in scope, and were deliberately designed so to be. One of their fundamental and principal objectives is to require the disclosure of *facts* by a party litigant to all of his adversaries, and thereby to eliminate, as far as possible, [emphasis added] the necessity of any party to litigation going to trial in a confused or muddled state of mind, concerning the facts that gave rise to the litigation." *Baltimore Transit Co. v. Mezzanotti*, 227 Md. 8, 13 (1961).

[13] Union Carbide attempts to differentiate its appeal by asserting that its "assertions of privilege are based on not only the attorney-client privilege, but also the work product doctrine." This is a distinction without a difference.

Additionally, the collateral order doctrine's fourth requirement does not compel, or even permit, this Court to analyze the effect that disclosure in *this* case may have on Union Carbide's *other* cases. The fourth requirement states that in order for a "non-final judgment to be appealable under [the] collateral order exception, . . . it must be effectively unreviewable on appeal from a final judgment." *Kurstin*, 420 Md. at 478-79. The requirement merely considers whether, in the case at issue, an appeal from final judgment could effectively remedy the consequences of a non-final judgment. If an appeal from a final judgment would provide an effective remedy, then an interlocutory appeal is inappropriate regardless of any collateral consequences that may exist. Therefore, though the disclosure of the materials in question here *may* cause Union Carbide prejudice in separate litigation, this is not grounds to conclude that the fourth requirement has been satisfied. As the Supreme Court stated in *Mohawk Industries*, the

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That the circuit court's order allegedly infringes upon Union Carbide's work product privilege does not change the fact that appellate courts can remedy the order "in the same way they remedy a host of other erroneous evidentiary rulings: by vacating an adverse judgment and remanding for a new trial in which the protected material . . . [is] excluded from evidence." *Mohawk Industries*, 558 U.S. at 109. The Court of Appeals' decision in *Kurstin* did not, as Union Carbide contended, "[turn] on the Court's position that the attorney-client privilege is a 'testimonial privilege.'" Rather, it turned on the Court's conclusion that an alleged infringement on a party's privileges may be properly remedied by a post-judgment appeal. That conclusion applies regardless of whether Union Carbide's assertions of privilege are based on attorney-client privilege or the work product doctrine.

fact "[t]hat a fraction of orders adverse to the attorney-client privilege may nevertheless harm individual litigants in ways that are 'only imperfectly reparable' does not justify making all such orders immediately appealable . . . ." *Mohawk Industries*, 558 U.S. at 112.

Union Carbide also argues that the circuit court's discovery order is not reviewable on final judgment because its privileges cannot be restored once they have been infringed upon. In order to support its argument, Union Carbide relies on *Ashcraft & Gerel v. Shaw*, 126 Md. App 325 (1999), and on *State v. Haas*, 188 Md. 63 (1947), *overruled by In re Petition for Writ of Prohibition*, 312 Md. 280 (1986). However, neither of these cases convince us to alter the conclusion that this Court does not have jurisdiction over Union Carbide's appeal.

In *Ashcraft*, this Court determined that a discovery order compelling a non-party to disclose allegedly privileged documents was immediately appealable under either the final judgment rule or the collateral order doctrine. *Ashcraft & Gerel*, 126 Md. App. at 341. Notably, the Court stated that the non-party's only interest in the pending litigation was the disclosure of documents,[14] and that the order requiring disclosure effectively terminated the non-party's interest in that action. *Id*. at 341-42. The circumstances in *Ashcraft* are clearly different from those in the instant case, where Union Carbide's

[14] This was determined to be the case despite the Court's observation that a separate suit may be filed against the non-party as a result of the disclosed documents. *Ashcraft*, 126 Md. App. at 342.

interest in the case is related directly to the merits and will continue long past the disclosure of the materials in question. As such, *Ashcraft* does not compel us to find that we have jurisdiction over this appeal.

In *Haas*, the Court of Appeals analyzed a trial court's writ of mandamus compelling production of witness statements by the State in connection with a criminal trial. *Haas*, 188 Md. at 65-66. With regard to two of the appellees, the Court noted that "copies of the statements asked for have already been furnished to counsel." *Id*. at 66. Since "there no longer exist[ed] any dispute[,]" and because the Court's "duty is to decide *bona fide* cases and disputes between parties[,]" the Court found that the appeal was moot and should be dismissed. *Id*.

Union Carbide relies on *Haas* for the proposition that the disclosure of allegedly privileged material risks mooting an appeal, and therefore, the circuit court's order cannot be reviewed on an appeal from final judgment. However, both the Court of Appeals and the Supreme Court have held that challenges to discovery orders compelling production of privileged material are best handled in post-judgment appeals. *See Kurstin*, 420 Md. at 476 ("Postjudgment appeals, together with other review mechanisms, suffice to protect the rights of litigants and preserve the vitality of the attorney-client privilege.") (quoting *Mohawk Industries*, 558 U.S. at 103); *see also Harris*, 420 Md. at 314 ("In Maryland, discovery orders being interlocutory in nature, are not ordinarily appealable prior to a final judgment terminating the case in the trial court.") (citations omitted). As such, we

are not convinced that the disclosure of allegedly privileged material risks mooting a subsequent post-judgment appeal.

As a final point, the Court of Appeals' analysis in *In re Foley* provides additional justification for our conclusion that this Court does not have jurisdiction over the instant case. There, the Court stated that "the fourth requirement of the collateral order doctrine. . . should be deemed satisfied only in a very few extraordinary situations. Otherwise, . . . there would be a proliferation of appeals under the collateral order doctrine." *In re Foley*, 373 Md. at 636 (citation omitted) (internal quotation marks omitted). We share similar concerns here. If this Court were to hold that it does have jurisdiction over the instant appeal, we would risk opening our doors to a flood of interlocutory appeals challenging the merits of routine discovery orders. Even more importantly, by claiming jurisdiction over this appeal, we would risk infringing on circuit courts' authority to direct and resolve the cases before them. This Court is not willing to entertain either of those risks here.

For the reasons stated above, we hold that the requirements of the collateral order doctrine have not been satisfied, and that this Court therefore does not have jurisdiction over Union Carbide's appeal.

APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.