

KITTERY POINT PARTNERS, LLC

v.

BAYVIEW LOAN SERVICING, LLC, et al.

Submitted on Briefs July 30, 2014

Decided August 5, 2014

Panel: ALEXANDER, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Bayview Loan Servicing, LLC (Bayview), appeals from an order entered by the Superior Court (York County, *Fritzsche, J.*) (1) finding that the crime-fraud exception set out in M.R. Evid. 502(d)(1) removed any attorney-client privilege, as claimed by Bayview, regarding ten pages of documents that Kittery Point Partners, LLC (KPP), sought in discovery; and (2) directing the court clerk to send those ten pages to KPP. Contrary to Bayview’s contention, “[t]he death knell exception [to the final judgment rule] is not applicable on these particular facts because the contents of the [documents] have already been [] disclosed,” and therefore Bayview “suffer[s] no irreparable loss of [its] substantial rights” if appellate review occurs following a final judgment. *Fiber Materials, Inc. v. Subilia*, 2009 ME 71, ¶¶ 15, 24, 974 A.2d 918. Issues raised by Bayview regarding the prospective use and admissibility of the released documents are properly addressed to the discretion of the trial court. Accordingly, we dismiss Bayview’s interlocutory appeal. *See Bd. of Overseers of the Bar v. Warren*, 2011 ME 124, ¶ 19, 34 A.3d 1103 (“The general rule is that discovery orders are deemed interlocutory and therefore are reviewable only on appeal from the final judgment.”).

The entry is:

Appeal dismissed.

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**On the briefs:**

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