

EDWARD KELMENSEN et al.

v.

INDIVIDUALS DESCRIBED IN PARAGRAPHS 5 & 6 OF THE MARCH 19,
2004, AFFIDAVIT OF ATTORNEY CHARLES E. GILBERT III

Argued June 12, 2006
Decided July 27, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,
and LEVY, JJ.

MEMORANDUM OF DECISION

Edward Kelmenson and Eastern Maine Medical Center appeal from a protective order entered in the Superior Court (Penobscot County, *Hjelm, J.*), granting an attorney in another lawsuit involving the plaintiffs protection from being compelled to identify previously undisclosed persons mentioned in an affidavit. The plaintiffs argue that the court erred in finding that the identities of the persons in the affidavit were protected by the work product doctrine or some other privilege. Contrary to their contentions, this appeal is interlocutory, and no exceptions to the rule barring appeal of interlocutory orders are applicable. *See*

United States Dep't. of Agric., Rural Hous. Servs. v. Carter, 2002 ME 103, ¶¶ 8-13, 799 A.2d 1232, 1234-36. The plaintiffs have failed to show that a major issue of unsettled law exists, or that they would be deprived of substantial rights in this case, which is, essentially, a discovery dispute between the plaintiffs and a potential witness. *See id.* The plaintiffs have other means available to determine if they have a cause of action and to identify potential defendants.

The entry is:

Appeal dismissed.

Attorneys for the appellants:

Michael A. Duddy, Esq. (orally)
Kelly, Remmel & Zimmerman
53 Exchange Street
P.O. Box 597
Portland, ME 04112

George Schelling, Esq. (orally)
Gross, Minsky & Mogul, P.A.
23 Water Street
Bangor, ME 04401

Attorney for the appellees:

Arthur J. Greif, Esq. (orally)
Gilbert & Greif, P.A.
82 Columbia Street
Bangor, ME 04402