



## Opinion on Rehearing

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IN THE  
COURT OF APPEALS OF INDIANA

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AO Alfa-Bank,  
*Appellant-Plaintiff,*

v.

John Doe, et al  
*Appellees-Defendants,*  
and  
L. Jean Camp,  
*Non-Party Appellee.*

June 11, 2021  
Court of Appeals Case No.  
20A-MI-2352  
Appeal from the Monroe Circuit  
Court  
The Honorable Frank M. Nardi,  
Special Judge  
Trial Court Cause No.  
53C04-2009-MI-1613

**Tavitas, Judge.**

[1] On May 19, 2021, this Court dismissed an appeal filed by AO Alfa-Bank (“Bank”) for a lack of subject matter jurisdiction and vacated the trial court’s order. *See AO Alfa-Bank v. Doe*, No. 20A-MI-2352 (Ind. Ct. App. May 19, 2021). Specifically, this Court held that the Bank failed to comply with the Uniform Interstate Depositions and Discovery Act, *see* Indiana Code Chapter 34-44.5-1 (“the Act”), when it issued a Florida non-party subpoena duces tecum (“Florida Subpoena”) to L. Jean Camp in Monroe County. Because the Bank failed to submit the Florida Subpoena to the Monroe County Clerk for the issuance of an Indiana subpoena, which is the necessary act to invoke the

jurisdiction of the Indiana courts, the trial court did not have subject matter jurisdiction to address Camp's motion to quash on the merits.

- [2] On rehearing, the Bank argues that it used the foreign subpoena procedure authorized by the Monroe County Board of Judges ("Board of Judges"). Bank and Camp agree the Board of Judges has ordered that the Monroe County Clerk's Office will not issue a Monroe County cause number for foreign subpoenas and that such foreign subpoenas are to be served by the Monroe County Sheriff's Office without a Monroe County cause number.
- [3] If the Bank's contentions regarding the Board of Judges are correct, then the Board of Judges has improperly instituted a procedure that conflicts with the Act, which specifically requires the foreign subpoena to be submitted to the Clerk and requires the Clerk to "promptly issue a subpoena." Ind. Code § 34-44.5-1-6. Subject matter jurisdiction is conferred upon a court "by the constitution or by statute," not by a procedure instituted by a county's Board of Judges. *State v. Reinhart*, 112 N.E.3d 705, 712 (Ind. 2018). The procedure instituted by the Board of Judges does not confer subject matter jurisdiction upon the trial court. Accordingly, although we grant rehearing to address the Bank's contention, we reaffirm our holding that the trial court lacked subject matter jurisdiction.
- [4] Additionally, Camp filed a cross-petition for rehearing. Camp's cross-petition for rehearing argues that, if the Board of Judges was required to follow the Act and failed to do so, this court should "affirm the trial court, rather than void its

order.” Camp’s Cross-Petition for Rehearing p. 3. Camp argues that, although the trial court did not have subject matter jurisdiction to *enforce* the foreign subpoena, it had subject matter jurisdiction to *quash* it. Camp argues that, without the authority to quash a non-domesticated foreign subpoena, parties receiving such an invalid subpoena would have no recourse.

[5] Camp, however, never requested that the trial court quash the foreign subpoena based upon the Bank’s lack of compliance with the Act and lack of jurisdiction. Rather, Camp asked the trial court to quash the foreign subpoena based upon the merits, which it did. Because the trial court lacked subject matter jurisdiction to consider the foreign subpoena, “any action it [took] is void.” *Stewart v. McCray*, 135 N.E.3d 1012, 1025 (Ind. Ct. App. 2019). This Court has held: “Indeed, when there is a lack of subject matter jurisdiction, a trial court is said to be without jurisdiction to do anything in the case except enter an order of dismissal.” *St. Joseph Hosp. v. Cain*, 937 N.E.2d 903, 907 (Ind. Ct. App. 2010), *transfer granted, opinion vacated*, 971 N.E.2d 668 (Ind. 2012), *vacated*, 975 N.E.2d 359 (Ind. 2012), and *opinion reinstated*, 975 N.E.2d 359 (Ind. 2012). Whether a trial court could quash a foreign subpoena based upon a lack of compliance with the Act and lack of jurisdiction is a matter not presented by the facts here. We decline Camp’s invitation to add dicta to our original decision. Accordingly, although we grant rehearing to address Camp’s contention, we reaffirm our holding vacating the trial court’s order.

[6] Having clarified the issues raised in the Bank's petition for rehearing and Camp's cross-petition for rehearing, we reaffirm our original opinion in all respects.

Najam, J., and Pyle, J., concur.