

SUPREME COURT OF DELAWARE

Hallett v. Carnet Holding Corp.

809 A.2d 1159 (Del. 2002) · No. No. 499, 2002 · Decided November 25, 2002

SUMMARY

The Delaware Supreme Court considered a motion to dismiss an appeal involving a Court of Chancery order continuing the sealing of confidential documents and a prior judgment declining to disqualify counsel. The court held that the appeal from the August 12, 2002 confidentiality judgment was timely, but dismissed the purported appeal concerning the April 16, 2002 disqualification ruling as untimely and procedurally unsupported.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland, Justice; Walsh, Justice; Berger, Justice
JURISDICTION	Delaware
DECIDED	November 25, 2002
DOCKET	No. 499, 2002
DISPOSITION	dismissed
PROCEDURAL POSTURE	Carnet Holding Corporation moved to dismiss Hallett's appeal for lack of appellate jurisdiction. The appeal sought review of an August 12, 2002 Court of Chancery judgment continuing a confidentiality and sealing order and also purported to challenge the earlier April 16, 2002 final judgment dismissing as moot Hallett's request to disqualify Carnet's outside counsel.
STANDARD OF REVIEW	Abuse of discretion for review of a judgment enforcing, modifying, or maintaining a confidentiality order.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Douglas L. Hallett v. Carnet Holding Corporation

TOPICS

- appellate jurisdiction
- final judgment rule
- interlocutory appeal
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the August 12, 2002 judgment continuing an existing confidentiality and sealing order was a separate final judgment appealable as of right.
2. Whether Hallett could obtain appellate review of the April 16, 2002 final judgment by suggesting during an August 23 teleconference that the Court of Chancery revisit that judgment, without filing a formal motion to reopen or appealing from an order denying such a motion.

HOLDINGS

1. After a judgment on the merits becomes final, a subsequent decision to enforce, modify, or maintain an existing confidentiality order constitutes a separate final judgment that may be directly appealed. Hallett's appeal from the August 12, 2002 judgment was timely.
2. The purported appeal concerning the April 16, 2002 final judgment was not properly before the Supreme Court because Hallett filed no formal motion to reopen that judgment and the Court of Chancery entered no order denying such a motion or otherwise creating an appealable judgment.

KEY QUOTATIONS

“When a judgment on the merits has become final, a subsequent decision to enforce, modify or maintain an extant confidentiality order constitutes a subsequent separate final judgment.” (1162)

“In the absence of a formal motion by Hallett to reopen the final judgment entered on April 16, 2002, and in the absence of the entry of a judgment denying such a motion, there is nothing for this Court to review with regard to the August 23, 2002 telephone conference.” (1162-63)

FACTUAL BACKGROUND

In a derivative action involving Carnet and certain officers and directors, Hallett was named as a third-party defendant. After the action was settled and dismissed, Hallett submitted documents containing communications between Carnet and its outside counsel in opposition to an attorney-fee motion and in support of a request to disqualify counsel. The Court of Chancery sealed the documents on April 3, 2002, entered a final judgment on April 16, 2002, and continued the sealing order on August 12, 2002 after Carnet petitioned to maintain confidentiality.

PROCEDURAL HISTORY

The Court of Chancery entered an April 3, 2002 order sealing certain documents, entered a final judgment on April 16, 2002, and later continued the sealing order on August 12, 2002. Hallett appealed on September 5, 2002, after the Court of Chancery declined during an August 23 teleconference to revisit the April 16 judgment. The Supreme Court of Delaware held that the appeal from the August 12 judgment was timely but dismissed the attempted appeal concerning the April 16 judgment because no formal motion to reopen or appealable order had been filed.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

Briefing was to proceed solely on Hallett's appeal from the August 12, 2002 final judgment extending the prior sealing order; the Clerk was directed to issue a brief schedule.

CASES CITED

- Edward S. Benville, Jr. v. Michael York and Eli Dabich, Jr. and Carnet Holding Corporation, Del. Ch., C.A. No. 17638, 769 A.2d 80
- Lipson v. Lipson, 799 A.2d 345 (Del. 2001)
- Pansy v. Borough of Stroudsburg, 23 F.3d 772 (3d Cir. 1994)
- Cebenka v. Upjohn Co., 559 A.2d 1219, 1224-25 (Del. 1989)
- Public Citizen v. Liggett Group, Inc., 858 F.2d 775, 782, 790 (1st Cir. 1988), cert. denied, 488 U.S. 1030 (1989)
- Poliquin v. Garden Way, Inc., 989 F.2d 527, 535 (1st Cir. 1993)
- Wolhar v. General Motors Corp., 712 A.2d 464, 468 (Del. Super. Ct. 1997)
- Miles Inc. v. Cookson America, Inc., 1993 WL 547186, at *4-5, 1993 Del. Ch. LEXIS 271, at 12
- Giordano v. Marta, 723 A.2d 833 (Del. 1998)

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