

SUPERIOR COURT OF PENNSYLVANIA

Arreguin, M. v. Kinsing, C.

2025 Pa. Super. 287 · No. J-E01005-25; No. 889 EDA 2023 · Decided December 23, 2025

SUMMARY

The Pennsylvania Superior Court, sitting en banc, held that a plaintiff’s failure to include the notice required by Pennsylvania Rule of Civil Procedure 238(c) with a motion for delay damages did not require dismissal where the plaintiff substantially complied with the rule and the defendant suffered no prejudice. The court reversed the denial of the motion, vacated the judgment, and remanded for consideration of the remaining grounds concerning delay damages. A dissenting opinion was filed.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Dubow, J.; Lazarus, P.J.; Bowes, J.; Panella, P.J.E.; McLaughlin, J.; King, J.; Sullivan, J.; Beck, J.; Lane, J.
JURISDICTION	Pennsylvania Superior Court
DECIDED	December 23, 2025
DOCKET	J-E01005-25; No. 889 EDA 2023
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of a motion for delay damages after a nonjury trial judgment awarding damages in a personal-injury action.
STANDARD OF REVIEW	Interpretation of the Pennsylvania Rules of Civil Procedure presents a pure question of law reviewed de novo, with plenary scope of review. The court also considered whether the trial court abused its discretion in declining to excuse the procedural defect under Rule 126.
PRECEDENTIAL VALUE	Published and precedential en banc decision of the Pennsylvania Superior Court
PARTIES	Maria Esther Arreguin, P.A.B., a minor, by Maria Esther Arreguin, parent and natural guardian, J.A.B., a minor, by Maria Esther Arreguin and Gamaliel Arreguin Ruiz, parents and natural guardians, Gamaliel Arreguin Ruiz v. Charles Kinsing

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QUESTIONS PRESENTED

1. Whether omission of the notice required by Pennsylvania Rule of Civil Procedure 238(c) required denial of the motion for delay damages.
2. Whether Pennsylvania Rule of Civil Procedure 126 permitted the court to excuse the omission because the motion otherwise substantially complied with Rule 238 and the omission did not prejudice the appellee.
3. Whether the matter should be remanded for consideration of the other grounds raised in opposition to the motion for delay damages.

HOLDINGS

1. Although Rule 238(c) unambiguously requires a motion for delay damages to begin with the specified notice, the omission is not necessarily fatal because Rule 126 permits courts to disregard a procedural defect that does not affect the opposing party's substantive rights.
2. The judgment and order could not stand because the trial court denied delay damages solely for failure to include the Rule 238 notice and did not address the remaining grounds raised by the parties.

KEY QUOTATIONS

“That said, we have always understood that procedural rules are not ends in themselves, and that the rigid application of our rules does not always serve the interests of fairness and justice.” (at 6)

“Based on these facts, Appellee suffered no prejudice from Ms. Arreguin’s failure to notify Appellee that he needed to respond to the motion for delay damages in writing in 20 days.” (at 8)

FACTUAL BACKGROUND

In July 2015, Charles Kinsing, who was severely intoxicated, rear-ended a vehicle driven by Maria Esther Arreguin, causing a chain-reaction collision in which six people were injured. Arreguin's ten-year-old son, P.A.B., was a passenger and suffered severe facial injuries requiring multiple surgeries and resulting in permanent scarring. After a nonjury trial, the trial court found for Arreguin and awarded \$4,111,746.38 in damages.

PROCEDURAL HISTORY

The trial court entered judgment for Maria Esther Arreguin and awarded \$4,111,746.38 in damages following a January 2023 nonjury trial. The trial court denied Arreguin's timely motion for delay damages under Pennsylvania Rule of Civil Procedure 238 because the motion omitted the rule-required notice. The Superior Court initially affirmed, but after granting reargument and withdrawing its prior decision, the en banc court

reversed the denial, vacated the judgment, and remanded for consideration of the remaining grounds concerning delay damages.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the judgment, reverse the order denying the motion for delay damages, and consider the remaining grounds for relief raised in the motion and in the appellee's response. Jurisdiction was relinquished.

CASES CITED

- *Getting v. Mark Sales & Leasing, Inc.*, 274 A.3d 1251, 1261 (Pa. Super. 2022)
- *Christy v. Cranberry Volunteer Ambulance Corps., Inc.*, 856 A.2d 43, 51 (Pa. 2004)
- *Wood v. Garrett*, 46 A.2d 321, 323 (Pa. 1946)
- *Pomerantz v. Goldstein*, 387 A.2d 1280, 1281 (Pa. 1978)
- *Sahutsky v. H.H. Knoebel Sons*, 782 A.2d 996, 1001 (Pa. 2001)
- *Kurtas v. Kurtas*, 555 A.2d 804, 806 (Pa. 1989)
- *Deek Inv. L.P. v. Murray*, 157 A.3d 491, 494 (Pa. Super. 2017)
- *Green Acres Rehab. and Nursing Ctr. v. Sullivan*, 113 A.3d 1261, 1272 (Pa. Super. 2015)
- *Dietz v. Avco Corp.*, No. 645 EDA 2021 (Pa. Super. 2022)

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