

SUPREME COURT OF THE STATE OF DELAWARE

In re Liquidation of Indemnity Insurance Corporation, RRG

No. 185, 2022 · No. No. 185, 2022 · Decided July 28, 2022

SUMMARY

The Delaware Supreme Court dismissed Jeffrey Cohen’s appeal from an order entered in the liquidation proceeding for Indemnity Insurance Corporation, RRG. The Court held that the Court of Chancery’s order was interlocutory rather than final, and that Cohen had also failed to comply with the applicable timing and interlocutory-appeal requirements.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Per curiam; signed by Justice Gary F. Traynor; Vaughn, Justice; Traynor, Justice; Montgomery-Reeves, Justice
JURISDICTION	Delaware
DECIDED	July 28, 2022
DOCKET	No. 185, 2022
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the Court of Chancery's denial of Jeffrey Cohen's objections to receiver claim determinations and motion for leave to file a complaint against the receiver and its counsel; the Supreme Court issued a notice to show cause why the appeal should not be dismissed as an improperly taken interlocutory appeal.
STANDARD OF REVIEW	De novo review of whether the Court of Chancery's order was final and appealable; appellate jurisdiction is determined by the nature and finality of the order.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion; precedential value not otherwise specified in the text.
PARTIES	Jeffrey Cohen v. Receiver of Indemnity Insurance Corporation, RRG

TOPICS

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

PRACTICE AREAS

appellate procedure

insurance liquidation

civil procedure

QUESTIONS PRESENTED

1. Whether the Court of Chancery's order denying Cohen's motion for leave to file an independent complaint and addressing his objections to claim determinations was a final and appealable order.
2. Whether the Delaware Supreme Court had jurisdiction to hear the appeal when Cohen failed to comply with Supreme Court Rule 42 for an interlocutory appeal.
3. Whether the appeal was independently untimely because Cohen filed it more than thirty days after entry of the Court of Chancery's order.

HOLDINGS

1. The order was not final and appealable because the liquidation proceeding remained ongoing and Cohen's unresolved claim objections could still be addressed through the approved plans.
2. Because the order was interlocutory and Cohen did not comply with Supreme Court Rule 42, the Supreme Court lacked jurisdiction to hear the appeal.
3. The appeal was independently subject to dismissal because Cohen filed the notice of appeal more than thirty days after the Court of Chancery's order.

KEY QUOTATIONS

“An order is deemed final and appealable if the trial court has declared its intention that the order be the court’s final act in disposing of all justiciable matters within its jurisdiction.” (at 3)

“Absent compliance with Rule 42, this Court lacks jurisdiction to hear an interlocutory appeal.” (at 3)

FACTUAL BACKGROUND

Indemnity Insurance Corporation, RRG was undergoing liquidation under the Delaware Uniform Insurers Liquidation Act, with Delaware's Insurance Commissioner serving as receiver. The receiver's claim-review process and related plans remained ongoing when Jeffrey Cohen objected to claim determinations and sought leave to file an independent complaint against the receiver and its counsel. The Court of Chancery denied the motions while indicating that unresolved claim objections would be addressed under the approved plans.

PROCEDURAL HISTORY

The Court of Chancery entered a liquidation and injunction order in 2014 and later approved the receiver's claim final determination and service plans. Cohen filed objections to claim determinations and sought leave to sue the receiver and its counsel. After the Court of Chancery denied those motions, Cohen appealed without complying with Supreme Court Rule 42. The Delaware Supreme Court held the order interlocutory and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Carr v. State, 554 A.2d 778, 779 (Del. 1989)
- Protective Life Ins. Co. v. Navarro, 2020 WL 5405865, at *3 (Del. Sept. 4, 2020)
- Eastern All. Ins. Co. v. Henry, 2021 WL 2418979, at *1 (Del. June 10, 2021)
- Julian v. State, 440 A.2d 990, 991 (Del. 1982)

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