

SUPREME COURT OF DELAWARE

Century Indemnity Co. v. Viking Pump, Inc.

Century Indemnity · No. No. 371, 2014; C.A. No. N10C-06-141; C.A. No. 1465 · Decided August 15, 2014

SUMMARY

The Delaware Supreme Court dismissed an appeal and cross-appeals as premature because a timely motion under Superior Court Civil Rule 59 remained pending in the trial court. The Court held that such a motion tolls the time for appealing an otherwise final judgment and waived the filing fee for any future appeal from the Superior Court's final judgment.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland; Ridgely; Valihura
JURISDICTION	Delaware
DECIDED	August 15, 2014
DOCKET	No. 371, 2014; C.A. No. N10C-06-141; C.A. No. 1465
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants appealed from a Superior Court final judgment entered after a jury verdict. Because a timely motion under Superior Court Civil Rules 59(d) and (e) remained pending, the Supreme Court determined that the appeal was premature and dismissed the appeal and cross-appeals.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order
PARTIES	Century Indemnity Co., et al. v. Viking Pump, Inc., et al., Warren Pumps, LLC

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the appeal was timely and properly before the Supreme Court when a Rule 59 motion to reargue or amend the judgment remained pending.
2. Whether the appeal and cross-appeals should be dismissed as premature rather than treated as appeals from an interlocutory judgment.

HOLDINGS

1. A timely filed motion for reargument or to amend a judgment tolls the time for taking an appeal from an otherwise final judgment; an appeal filed while that motion remains pending is premature.
2. The appeal and cross-appeals must be dismissed because they were filed before the Superior Court entered a final judgment resolving the pending Rule 59 motion.

KEY QUOTATIONS

“The law is clear that a timely-filed motion for reargument or to amend a judgment tolls the time for taking an appeal from an otherwise final judgment of the trial court.” (¶ 3)

“Consequently, the appeal is premature and must be dismissed.” (¶ 3)

FACTUAL BACKGROUND

The appeal arose after a jury verdict and entry of judgment in consolidated litigation involving Century Indemnity, Viking Pump, Warren Pumps, and other parties. Warren Pumps filed a timely motion under Superior Court Civil Rules 59(d) and (e) seeking clarification and supplementation of the judgment. That motion had not been resolved by a formal order when the defendants filed their notice of appeal.

PROCEDURAL HISTORY

A jury verdict was rendered on November 15, 2012, and the Superior Court entered final judgment on June 9, 2014. Warren Pumps filed a Rule 59 motion to clarify and supplement the judgment on June 16, 2014. Defendants filed a notice of appeal on July 9, 2014, while the motion remained unresolved; the Supreme Court issued a show-cause notice concerning interlocutory appellate procedure and dismissed the appeal and cross-appeals as premature.

DISPOSITION

dismissed

CASES CITED

- *Tomasetti v. Wilmington Savings Fund Soc'y*, 672 A.2d 61, 64 (Del. 1996)