

SUPREME COURT OF THE STATE OF DELAWARE

Wollner v. PearPop, Inc.

No. 236, 2022 · No. No. 236, 2022 · Decided July 21, 2022

SUMMARY

The Delaware Supreme Court dismissed Ryan Wollner’s appeal because it was taken from an interlocutory Court of Chancery decision and Wollner had not complied with Supreme Court Rule 42. The Court held that the Chancery proceedings were ongoing because the amount of attorneys’ fees remained unresolved and no final judgment had been entered.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Gary F. Traynor; Vaughn, Justice; Traynor, Justice; Montgomery-Reeves, Justice
JURISDICTION	Delaware
DECIDED	July 21, 2022
DOCKET	No. 236, 2022
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a Court of Chancery letter decision granting default judgment and awarding attorneys' fees. The Supreme Court issued a notice to show cause why the appeal should not be dismissed as an impermissible interlocutory appeal.
STANDARD OF REVIEW	Absent compliance with Supreme Court Rule 42, the Delaware Supreme Court is limited to reviewing a trial court's final judgment.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order
PARTIES	Ryan Wollner v. PearPop, Inc.

TOPICS

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

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the Court of Chancery's June 21 decision was a final, appealable judgment.
2. Whether the appeal should be dismissed because it was interlocutory and Wollner failed to comply with Supreme Court Rule 42.

HOLDINGS

1. An order is not final and appealable when the trial court has not finally determined and terminated all justiciable matters within its jurisdiction. Because further action was required, including resolution of the amount of attorneys' fees and entry of a final order, the June 21 decision was interlocutory.
2. A party is not exempt from Supreme Court Rule 42's requirements merely because issuance of a final order is delayed. Because there was no final judgment and Wollner had not complied with Rule 42, the appeal had to be dismissed.

KEY QUOTATIONS

“Absent compliance with Rule 42, this Court is limited to the review of a trial court’s final judgment.” (2)

“As there is presently no final judgment in the Court of Chancery and Wollner has not complied with Rule 42, this appeal must be dismissed.” (3)

FACTUAL BACKGROUND

The Court of Chancery granted PearPop, Inc.'s motion for default judgment and found Ryan Wollner responsible for some of PearPop's attorneys' fees. The court directed PearPop to prepare a final order, and the amount of attorneys' fees remained unresolved. Wollner filed a notice of appeal before a final order was entered and did not comply with the requirements for an interlocutory appeal.

PROCEDURAL HISTORY

The Court of Chancery granted PearPop's motion for default judgment and found Wollner responsible for some of PearPop's attorneys' fees, but directed PearPop to prepare a final order and left the amount of fees unresolved. Wollner appealed before entry of a final order and did not comply with Supreme Court Rule 42 governing interlocutory appeals. The Delaware Supreme Court dismissed the appeal because the Court of Chancery proceedings remained ongoing and no final judgment had been entered.

DISPOSITION

dismissed

CASES CITED

- Julian v. State, 440 A.2d 990, 991 (Del. 1982)
- J.I. Kislak Mortg. Corp. v. William Matthews, Builder, Inc., 303 A.2d 648, 650 (Del. 1973)

OPINION

Wollner v. PearPop, Inc.

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RYAN WOLLNER, §

§ Plaintiff Below, § No. 236, 2022 Appellant, § § Court Below—Court of Chancery v. § of the State of Delaware §

PEARPOP, INC., § C.A. No. 2021-0157

§ Defendant Below, § Appellee. § Submitted: July 8, 2022 Decided: July 21, 2022 Before VAUGHN, TRAYNOR, and MONTGOMERY-REEVES, Justices.

ORDER

Upon consideration of the notice to show cause and the appellant's response, it appears to the Court that:

(1) On July 6, 2022, Ryan Wollner, filed a notice of appeal from a Court of Chancery letter decision, dated June 21, 2022, granting PearPop, Inc.'s motion for default judgment and finding Wollner responsible for some of PearPop's attorneys' fees. The decision directed PearPop to prepare a form of final order. After issuance of the June 21 decision, Wollner filed multiple documents in the Court of Chancery, including a motion to stay pending appeal and a letter requesting removal of the Chancellor from the case.

(2) On July 7, 2022, the Senior Court Clerk issued a notice directing Wollner to show cause why this appeal should not be dismissed for his failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order. On July 9, 2022, the Court of Chancery denied Wollner's request for removal. As to the motion to stay, the court found there was nothing to stay, except for the award of attorneys' fees. The court directed PearPop to submit, within five business days, a proposed form of final order reflecting the attorneys' fees requested and to state its position with respect to the motion to stay and the amount of any required security. Wollner then filed letters disagreeing with the court's denial of his request for removal and demanding an investigation by the Department of Justice.

(3) In his response to the notice to show cause in this Court, Wollner primarily argues the merits of his appeal. He also contends that the requirements of Supreme Court Rule 42 for interlocutory appeals should not apply because it is taking too long for issuance of a final order in the Court of Chancery.

(4) Absent compliance with Rule 42, this Court is limited to the review of a trial court's final judgment.¹ An order is deemed final and appealable if the trial 1 Julian v. State, 440 A.2d 990, 991 (Del. 1982). 2 court has declared its intention that the order be the court's final act in disposing of all justiciable matters within its jurisdiction.²

(5) The June 21 decision (and July 9 decision) required further action by PearPop. The amount of attorneys' fees that Wollner is responsible for remains unresolved. Because the June 21 decision did not finally determine and terminate the Court of Chancery

proceedings and those proceedings remain ongoing, this appeal is interlocutory.

(6) Wollner is not exempt from the requirements of Rule 42. He

complains that it is taking too long for issuance of a final order, but it has been less than thirty days since the June 21 decision and less than fourteen days since the July 9 decision. According to the Court of Chancery docket, PearPop filed a proposed form of final order with its attorneys' fees yesterday. Wollner has also continued to make demands for action in the Court of Chancery. As there is presently no final judgment in the Court of Chancery and Wollner has not complied with Rule 42, this appeal must be dismissed. 2 J.I. Kislak Mortg. Corp. v. William Matthews, Builder, Inc., 303 A.2d 648, 650 (Del. 1973). 3 NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED. The filing fee paid by Wollner shall be applied to any future appeal he files from a final order entered in the case. BY THE COURT: /s/ Gary F. Traynor Justice 4