

[J-1-2005]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

MILLER ELECTRIC COMPANY,	: NO. 26 WAP 2004
	: :
V.	: Appeal from the Order of Superior Court
	: entered August 25, 2003 at No. 1420
TATE DEWEESE AND JUST-MARK,	: WDA 2002 quashing the appeal from the
INC.,	: Order of the Court of Common Pleas of
	: Allegheny County, entered July 10, 2002
V.	: at No. AR 95-4332.
	: :
BIRMINGHAM BISTRO, INC.	: :
	: ARGUED: March 7, 2005
APPEAL OF:	: :
BIRMINGHAM BISTRO, INC.	: :

CONCURRING OPINION

MR. CHIEF JUSTICE CAPPY

DECIDED: OCTOBER 17, 2006

I join the opinion of the majority. The majority reached the only result possible given the existing constraints of the Pennsylvania Rules of Civil Procedure.

I write separately to suggest that the problem of dual appellate tracks for cases involving a judgment on the merits of a legal action and the post-trial motions naturally arising therefrom; and the later disposition of separate post-trial ancillary matters, such as a motion for attorney fees, should be referred to our civil rules committee for review. Perhaps the committee can propose a solution that would permit a single appeal in cases involving multiple direct and ancillary post-trial matters.