

[J-22-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

LOIS EISER, ADMINISTRATRIX OF THE ESTATE OF WILLIAM M. EISER AND LOIS EISER, INDIVIDUALLY,	:	No. 39 EAP 2006
	:	
Appellants	:	Appeal from the Memorandum and Order of the Superior Court at No. 191 EDA 2004 dated January 19, 2006 (reargument denied March 29, 2006) which affirmed the Judgment of the Court of Common Pleas of Philadelphia County, Civil Division entered January 8, 2004 at No. 4367 March Term, 1999.
v.	:	
BROWN & WILLIAMSON TOBACCO CORPORATION AND THE TOBACCO INSTITUTE,	:	ARGUED: May 16, 2007
	:	
Appellees	:	

DISSENTING OPINION

MR. JUSTICE EAKIN

DECIDED: December 28, 2007

I dissent, as I believe appellant waived appellate review by raising a quantity of issues in her Pa.R.A.P. 1925(b) statement sufficient to impair meaningful review.

Rule 1925(b) provided:¹

The lower court forthwith may enter an order directing the appellant to file of record in the lower court and serve on the trial judge a concise statement of the matters complained of on the appeal no later than 14 days after entry of such order. A failure to comply with such direction may be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of.

¹ Rule 1925 has been amended, and the text of those amendments was effective July 25, 2007.

Pa.R.A.P. 1925(b). This Rule required appellant, when directed, to file a concise statement of the matters complained of on appeal.

“Rule 1925 is [] a crucial component of the appellate process.” Commonwealth v. Lord, 719 A.2d 306, 308 (Pa. 1998). “[It] is intended to aid trial judges in identifying and focusing upon those issues which the parties plan to raise on appeal.” Id. This Rule guarantees a trial judge’s ability to focus on the issues raised, and to allow for meaningful and effective appellate review. Commonwealth v. Schofield, 888 A.2d 771, 774 (Pa. 2005). The Rule is there for a meaningful purpose, which purpose is defeated by scattershot prolixity such as this.

The trial court ordered appellant “to file a concise, self-contained and intelligible statement of the matters complained of on [] [a]ppelal ...” Trial Court Order Pursuant to Pa.R.A.P. 1925(b), 2/10/04. The order informed appellant “non-compliance with this Order may be deemed a waiver of all objections to the Order or other matters complained of on Appeal.” Id. Appellant, however, filed a statement that did not comply with either the language or purpose of Rule 1925. Appellant’s 15-page statement consists of nearly 30 issues and sub-issues, each of which includes argument. Such a statement did not aid the trial court in identifying the issues appellant planned to raise on appeal; rather, the trial court found it “ha[d] been greatly impeded in its ability to prepare on [sic] Opinion that fully and cogently discusses the issues [appellant] intend[ed] to raise on appeal due to the number of issues [appellant] ha[d] raised in her 1925(b) statement.” Trial Court Opinion, 2/1/05, at 6.

There comes a point when too much is simply too much. Appellant’s statement was not concise and did not aid the trial court in focusing on the issues she planned to raise on appeal. Since appellant failed to comply with Rule 1925(b) by not providing the

court with a concise statement of the issues she intended to raise on appeal, I would uphold the ruling of the Superior Court.