

ORDER

This 31st day of January 2002, upon consideration of the appellees' motions to dismiss these appeals and the responses and replies thereto, it appears to the Court that:

(1) On November 5, 2001, the Court of Chancery issued a joint Order of Declaratory Judgment resolving issues raised in two actions, C.A. No. 16297 and C.A. No. 18101. Although the actions were filed separately below, the Court of Chancery found that the actions were interrelated and that conclusions reached in both actions could be implemented in a joint order. As to case No. 16297, the parties agree that the Court of Chancery's November 5, 2001 order did not resolve all of the issues in that case and that the issue of damages remains pending.

(2) On December 4, 2001, plaintiffs Iris Cantor and Cantor Fitzgerald Incorporated and plaintiff Rod Fisher each filed a notice of appeal from the November 5th order as to C.A. No. 18101. Those plaintiffs, as well as plaintiff Market Data Corporation, each filed a separate notice of appeal from the November 5th order as to C.A. No. 16297. The defendants-appellees have moved to dismiss all five appeals on the ground that they are interlocutory appeals and were not filed in compliance with Supreme Court Rule 42. The defendants also have filed protective cross-appeals in the event the primary appeals are not dismissed.

(3) We have considered the parties' respective positions carefully. In the interests of judicial economy and in light of the Court of Chancery's November 5, 2001 consolidated order and given the identity of the parties and the interrelationship of the claims in both actions, we find that C.A. No. 16297 and C.A. 18101 should be considered consolidated for purposes of appeal.¹ Therefore, we find the November 5, 2001 decision was an interlocutory order in the consolidated proceedings.²

(4) Accordingly, given the record presented, the appeals and the cross-appeals must be dismissed as interlocutory appeals that were not filed in compliance with Rule 42. Any docketing fees paid to this Court by the parties in conjunction with these appeals shall be applied to any future appeal or cross-appeal from a final order rendered in the case.

NOW, THEREFORE, IT IS ORDERED that the within appeals and cross-appeals are hereby DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹See *Winston v. Mandor*, Del. Supr., No. 243, 1997, Hartnett, J. (June 11, 1998).

²See *Bergman v. City of Atlantic City*, 860 F.2d 560, 566-67 (3d Cir. 1988).