

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IAN C. WILKINSON,	§	
	§	No. 394, 2001
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in
v.	§	and for New Castle County
	§	C.A. No. 98C-07-007
CATHY MESSINGER,	§	
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: August 16, 2001

Decided: August 29, 2001

Before **VEASEY**, Chief Justice, **BERGER** and **STEELE**, Justices.

ORDER

This 29th day of August 2001, it appears to the Court that:

(1) The defendant-appellant, Ian C. Wilkinson, has petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from the Superior Court's interlocutory order on July 23, 2001 denying Reargument of the Superior Court's April 27, 2001 order granting the motion of plaintiff-appellee Cathy Messinger for a new trial. Following trial in the Superior Court in this motor vehicle accident case, the jury returned a verdict assessing 30% liability against the defendant and 70% liability against the plaintiff. The Superior Court granted Messinger's motion for a new trial¹ on the basis that there was no expert evidence supporting negligence on the part of the plaintiff and the references to plaintiff's negligence in defense

¹ The Superior Court also denied the defense motion for costs as moot.

counsel's closing argument should have been excluded. The Superior Court also denied Wilkinson's subsequent motion for Reargument.

(2) On August 13, 2001, the Superior Court refused to certify an interlocutory appeal to this Court pursuant to Rule 42 because a review of the interlocutory order would not substantially reduce further litigation or otherwise serve considerations of justice.

(3) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in exceptional circumstances.² We have examined the Superior Court's April 27, 2001 order granting Messinger's motion for a new trial and its July 23, 2001 order denying Wilkinson's motion for Reargument according to the criteria set forth in Rule 42. In the exercise of its discretion, this Court has concluded that exceptional circumstances do not exist in this case to merit interlocutory review of the decisions of the Superior Court.

NOW, THEREFORE, IT IS ORDERED that the within interlocutory appeal is REFUSED.

BY THE COURT:

Myron T. Steele

Justice

² Supr. Ct. R. 42(b).