

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AGILENT TECHNOLOGIES and	§
HEWLETT PACKARD CO.,	§
	§ Nos. 549/550, 2004
Appellees Below-	§ (Consolidated)
Appellants,	§
	§
v.	§ Court Below – Superior Court
	§ of the State of Delaware,
ALBERT DELPIZZO,	§ in and for New Castle County
	§ C.A. No. 03A-07-005
Appellant Below-	§
Appellee.	§

Submitted: February 14, 2005  
Decided: March 10, 2005

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

**ORDER**

This 10th day of March 2005, upon consideration of the appellee’s motions to dismiss and the appellants’ respective responses thereto, it appears to the Court that:

(1) The appellants filed separate appeals from an order of the Superior Court, which reversed a decision of the Industrial Accident Board (“IAB”) and remanded the matter for a hearing on the merits of the appellee’s petition for compensation due. The appellee has filed separate motions to dismiss each appeal on the ground that the appeals are

interlocutory and that neither appellant has complied with Supreme Court Rule 42 in seeking to appeal the Superior Court's interlocutory order.

(2) The appellants each filed a response in opposition to the appellee's motions to dismiss. After carefully considering the parties' respective positions, we have concluded that the appeal must be dismissed. The Superior Court's order reversing the IAB's decision, which dismissed DelPizzo's petition for lack of jurisdiction, and remanding the case for further action is clearly interlocutory, and appellants have made no attempt to comply with Supreme Court Rule 42. The further action required by the IAB is more than "ministerial" in nature.<sup>1</sup> It requires the IAB to decide DelPizzo's claim and fashion an appropriate final judgment on the merits of the petition.<sup>2</sup>

NOW, THEREFORE, IT IS ORDERED that the motions to dismiss are GRANTED. The within appeals hereby are DISMISSED.<sup>3</sup>

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>1</sup> *Pollard v. The Placers, Inc.*, 692 A.2d 879, 880-81 (Del. 1997).

<sup>2</sup> *Mountaire Farms, Inc. v. Showell*, 2003 WL 728558 (Del. Feb. 28, 2003).

<sup>3</sup> In the event that either of the appellants files another appeal in this same proceeding, this Court's fee will be waived.