

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BARBARA BEEGHLEY,	§
	§
Plaintiff Below-	§ No. 136, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
KENNETH HILK and CAROL	§ in and for New Castle County
HILK,	§ C.A. No. 99C-08-202
	§
Defendants Below-	§
Appellees.	§

Submitted: April 8, 2002  
Decided: April 17, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

**ORDER**

This 17<sup>th</sup> day of April 2002, it appears to the Court that:

(1) On March 18, 2002, this Court received the appellant's notice of appeal from the Superior Court's letter ruling dated March 8, 2002, which rescheduled the trial date and set a briefing schedule in connection with appellees' motion for summary judgment.

(2) On March 20, 2002, the Clerk's office issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed for her failure to comply with Supreme Court

Rule 42 when taking an appeal from an apparent interlocutory order. On March 26, 2002, the appellees filed a motion to dismiss the appeal as interlocutory. The Clerk directed the appellant to respond to the appellees' motion to dismiss. In her response, the appellant states that the March 8, 2002 letter ruling of the Superior Court is not interlocutory because it pertains to a procedural, and not a substantive, issue.

(3) The test for whether an order is final and therefore ripe for appeal is whether the trial court has clearly declared its intention that the order be the court's "final act" in a case.<sup>1</sup> The Superior Court's March 8, 2002 letter ruling clearly was not the court's final act in this case for purposes of appeal since its decision on the motion for summary judgment has not yet been issued. Accordingly, the appeal is premature absent compliance with the requirements for taking an interlocutory appeal in accordance with Supreme Court Rule 42. Because the appellant has not attempted to comply with the requirements of Rule 42, her appeal must be dismissed.

---

<sup>1</sup>*J.I. Kislak Mortgage Corp. of Delaware v. William Matthews Builders, Inc.*, 303 A.2d 648, 650 (Del. 1973).

NOW, THEREFORE, IT IS ORDERED that the appeal is  
DISMISSED.

BY THE COURT:

s/Joseph T. Walsh  
Justice