

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

PENNSYLVANIA MANUFACTURERS' ASSOCIATION INSURANCE COMPANY,	:	No. 24 MAP 2017
	:	
	:	Appeal from the Order of the
	:	Commonwealth Court at No. 330 MD
Appellant	:	2015 dated 4/21/17
	:	
	:	
	:	
v.	:	
	:	
JOHNSON MATTHEY, INC. AND PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	
	:	
	:	
Appellees	:	

DISSENTING STATEMENT

CHIEF JUSTICE SAYLOR

DECIDED: July 18, 2018

I respectfully dissent. None of the decisions referenced by the majority suggest that, after the outright rejection of a party's entire request for declaratory relief by a court of original jurisdiction, the pendency of an adverse party's counterclaim nevertheless serves to defeat the entitlement to an interlocutory appeal as of right under *Nationwide Mutual Insurance Co. v. Wickett*, 763 A.2d 813 (Pa. 2000). Indeed -- and while I have not been a supporter of the *Wickett* doctrine other than by way of adherence to precedent -- I question what may be left of *Wickett* under the majority's present approach, which suggests that the decision does not apply merely when *something* remains pending in the court of original jurisdiction.

Respectfully, from my point of view, if *Wickett* is to be overruled, it would be preferable to do so directly. Under the presently prevailing law, it is my considered judgment that Appellant is entitled to appeal as of right per *Wickett's* special rule of appealability for declaratory judgment actions.

Justice Todd joins this dissenting statement.