

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY W. GUNZL,	§
	§ No. 79, 2014
Plaintiff Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
ONE OFF ROD & CUSTOM, INC., <i>et al.</i> ,	§ in and for New Castle County
	§ C.A. No. N12L-04-017
Defendants Below-	§
Appellees.	§

Submitted: May 20, 2014

Decided: June 4, 2014

Before **STRINE**, Chief Justice, **BERGER**, and **RIDGELY**, Justices.

**ORDER**

This 4<sup>th</sup> day of June 2014, upon consideration of the notice to show cause, the appellant’s response, and the appellees’ reply, it appears to the Court that:

(1) The appellant, Anthony Gunzl, filed this appeal from a decision of the Superior Court, dated January 23, 2014, which denied his “Motion for Argument and Supporting Perjury.” The Superior Court’s decision, in substance, denied Gunzl’s second motion seeking reargument of the Superior Court’s dismissal of his complaint. A review of the Superior Court’s docket reflects that the appellees’ counterclaim against Gunzl remains pending below.

(2) After the appeal was filed, the Clerk of this Court issued a rule to show cause why the appeal should not be dismissed for Gunzl’s failure to comply

with Supreme Court Rule 42 when appealing an apparent interlocutory order. Gunzl's response does not address the interlocutory nature of his appeal or his failure to comply with Rule 42. The appellees agree that the appeal is interlocutory and that Gunzl has failed to comply with Rule 42.

(3) An order is deemed final and appealable if the trial court has declared its intention that the order be the court's "final act" in disposing of all justiciable matters within its jurisdiction.<sup>1</sup> The ruling from which the appeal is taken is interlocutory in nature because it did not finally determine and terminate the cause below.<sup>2</sup> The appellees' counterclaim remains pending before the Superior Court. Because Gunzl has failed to comply with the requirements of Rule 42 in seeking to appeal from an interlocutory order, his appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that this appeal is hereby DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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

<sup>2</sup> *See Julian v. State*, 440 A.2d 990 (Del. 1982).