



MINNESOTA JUDICIAL TRAINING UPDATE



PARTIAL SUMMARY JUDGMENT – RULE 54.02

QUESTION: After Issuing A Partial Summary Judgment Order, In Which You Dismiss Some But Not All Of The Claims and/or Parties To A Lawsuit, The Court Should Ask Itself The Following Question:

1. Does The Court Want The Losing Party To Have The Right To Immediately Appeal The Partial Summary Judgment Order, Or Should The Losing Party Have To Wait Until The End Of The Case, After All Claims Have Been Resolved and a Final Judgment Has Been Entered, Before Filing An Appeal?

ANSWER - RIGHT TO IMMEDIATE APPEAL: If you want the losing party to have the right to immediately appeal the partial summary judgment order, then pursuant to Minnesota Rule of Civil Procedure 54.02, you **MUST** insert the following talismanic provision at the end of your order:

**THERE BEING NO JUST REASON FOR DELAY
LET JUDGMENT ENTER ACCORDINGLY**

NOTE: In the absence of the above Rule 54.02 exact provision, the partial summary judgment is NOT considered a final judgment and is NOT appealable. In that event, the losing party must wait until the end of the case, after all claims have been resolved and final judgment has been entered, before filing an appeal.

WHAT STANDARD SHOULD THE COURT APPLY?

- 1) The trial judge has broad discretion under Rule 54.02 to allow piecemeal appeal ‘if the parties or claims are clearly separable and no prejudice would result from appeal.’ See *Novus Equities Corp. v. EM-TY Partnership*, 381 N.W.2nd 426 (Minn. 1986).

- 2) **The propriety of a discretionary decision depends upon whether undue hardship and substantial prejudice would result to one or more of the parties if an immediate appeal proceeds or if no final adjudication occurs.** *Housing and Redevelopment Authority In and For City of Minneapolis v. Minneapolis Metropolitan Co., 141 N.W.2d 130 (1966).*

THREE EXAMPLES OF WHEN AND WHY RULE 54.02 MIGHT APPLY:

1. **HARDSHIP VS PREJUDICE:** The trial court entered partial summary judgment on one count of a complaint and pursuant to rule 54.02 directed the clerk to enter judgment permitting the adverse party to appeal the partial summary judgment. The losing party argued that it would suffer a substantial loss of interest by a delayed ruling and that the prevailing party would suffer no significant prejudice. The Supreme Court upheld the determination of the trial court and held that "...a trial judge must be accorded broad discretion in deciding whether an immediate appeal of a partial summary judgment is appealable. *See Novus, Id.*
2. **QUESTIONS OF LAW:** If questions of law are involved, which should be reviewed and resolved before the action continues, the court is justified in ordering the partial judgment and continuing the remainder of the case until judicial review of that judgment has been completed or until the time for such review has passed.
3. **DETERMINATIVE ISSUE:** If a decision regarding a particular claim or an issue regarding a particular party may be determinative of the action, a court is advised to enter judgment to provide for an immediate review on appeal.

REFERENCE: RULE 54.02 - JUDGMENT UPON MULTIPLE CLAIMS

When multiple claims for relief or multiple parties are involved in an action, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.