

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PRESSMAN-GUTMAN CO., INC.	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
	:	
FIRST UNION NATIONAL BANK, et al.	:	No. 02-8442

MEMORANDUM

Plaintiff has filed a motion requesting that this court grant it an extension of time to appeal the November 30, 2004 order disqualifying counsel and the December 15, 2004 order appointing a guardian ad litem. However, the orders are not appealable pursuant to 28 U.S.C. § 1291, the collateral order doctrine, or 28 U.S.C. § 1292. Therefore, the court will deny plaintiff's motion.

Under Section 1291, the courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts. 28 U.S.C. § 1291. "A final decision is one which ends the litigation on the merits and leaves nothing for the Court to do but execute the judgment." Catlin v. United States, 324 U.S. 229, 233 (1945). In this case, the November 30 and the December 15 orders do not end the litigation on the merits. Thus, the orders cannot be appealed under Section 1291.

The collateral order doctrine provides a narrow exception to the general rule allowing appellate review of only final orders. Petroleos Mexicanos Refinacion v. M/T KING A, 377 F.3d 329, 334 (3d Cir. 2004). An appeal from a nonfinal order will lie if: (1) the order from which the appellant appeals conclusively determines the disputed question; (2) the order resolves an important issue that is completely separate from the merits of the dispute; and (3) the order is

effectively unreviewable on appeal from a final judgment. Id. Significantly, the November 30 and December 15 orders can effectively be reviewed on appeal from a final judgment. See Richardson-Merrell, Inc. v. Koller, 472 U.S. 424, 438 (1985) (indicating that an order disqualifying counsel can effectively be reviewed on appeal from a final judgment); see also Ferrelli v. River Manor Health Care Center, 323 F.3d 196, 200 (2nd Cir. 2003) (indicating that a district court's decision as to whether to appoint a guardian ad litem can effectively be reviewed on appeal from a final judgment). Accordingly, the collateral order doctrine does not apply.

Under 28 U.S.C. §1292(a)(1), interlocutory orders granting or denying injunctive relief are appealable. Moreover, under Section 1292(a)(3), interlocutory orders of district courts sitting in admiralty are appealable. The November 30 and December 15 orders do not grant or deny injunctive relief, and this is not an admiralty case. Therefore, the orders are not appealable pursuant to Section 1292.

Because the November 30 and December 15 orders are not appealable, plaintiff's motion to grant it an extension of time to appeal the orders is denied.

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ORDER

AND NOW, this 22nd day of December, 2004, upon consideration of plaintiff's motion for extension of time to file an appeal (Doc. # 103), it is hereby ORDERED that said motion is DENIED.

/s/ _____
LAWRENCE F. STENGEL, J.