

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

Bennie Cobb and Markisha Davis, :  
 :  
 : C.A. No. 07-08-0086AP  
 :  
 Plaintiffs below/ :  
 Appellants, :  
 :  
 :  
 v. :  
 :  
 :  
 B & O Transport and :  
 Canal Insurance, :  
 :  
 :  
 Defendants below/ :  
 Appellees. :

Submitted: August 14, 2007

Decided: August 15, 2007

**Decision on appeal from the Justice of the Peace Court.**

**Appellant's appeal is dismissed for lack of jurisdiction.**

**Bennie Cobb, 669 North Street, Dover, Delaware 19904, Pro Se Appellant.**

**Roger D. Landon, Esquire, Murphy & Landon, 1011 Centre Road, Suite, 210,  
Wilmington, Delaware 19805, Attorney for Appellees.**

**Trader, J.**

In this civil appeal from the Justice of the Peace Court 16, I conclude that this appeal must be dismissed for violation of the mirror image rule. The plaintiffs, Bennie Cobb, and Markisha Davis, filed a civil action against L & W Insurance and B & O Transport in the Justice of the Peace Court 16 on April 10, 2007. On July 25, 2007, prior to trial, the magistrate dismissed the civil action without prejudice. On August 2, 2007, the plaintiff, Bennie Cobb, filed a Praecipe, a Notice of Appeal, and Complaint with this Court. I permitted Bennie Cobb to proceed in *forma pauperis* and a similar petition filed Markisha Davis was approved by this Court.

On appeal, the Complaint was filed against B & O Transport and Canal Insurance. L & W Insurance, which was a party to the case in the court below, is not a party on this appeal. Additionally, Markisha Davis, a plaintiff in the court below, is listed in the caption, but did not sign the Complaint, Notice of Appeal, or Praecipe. Therefore, one of the defendants in the court below was omitted from this appeal and a Complaint was filed against an additional defendant. Additionally, one plaintiff has been omitted from the Complaint on appeal.

The general rule is that in an appeal from the Justice of the Peace Court, the parties must be the same. *Cooper's Home Furnishings, Inc. v. Smith*, 250 A.2d 507, 508 (Del. Super. 1969); *McDowell v. Simpson*, 1 Houst 467 (Del. Super. 1985). The *McDowell* mirror image rule requires that the same parties be involved in a *de novo* appeal as were present at the initial hearing. *Gaster v. Belak*, 318 A.2d 628 (Del. Super. 1974). Application of the mirror image rule assures a retrial of the same cause of action that occurred at the Justice of the Peace Court level. *Sulla v. Quillen*, 1987 WL 18425, at \*1 (Del. Super. Sept. 24, 1987).

In this case, because a defendant was omitted on appeal and an additional defendant was added on appeal, and a plaintiff was omitted on appeal, the parties in this Court are not the same as the parties that were before the Justice of the Peace Court. Accordingly, this claim is dismissed.

**IT IS SO ORDERED.**

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**Merrill C. Trader**  
**Judge**