

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**
KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
PHONE: (302) 735-3910

CHARLES W. WELCH, III
JUDGE

September 10, 2012

Carolyn H. deBernard, Esq.
306 E. Camden-Wyoming Avenue
Camden, DE 19934

Mr. Earl C. Stanley
317 S. Wynnwood Circle
Camden, DE 19934

RE: Eric C. Stanley v. Ronnie Lloyd-Delwood Trailer Sales
C.A. No.: CPU5-11-001600
(Appeal from Justice of the Peace Court)

Decision on Appellee's Motion to Dismiss Appeal and Appellant's Motion to Amend Notice of Appeal

Dear Ms. deBernard and Mr. Stanley:

Appellant, Plaintiff-Below, Eric C. Stanley, has filed a civil appeal with this Court seeking a trial *de novo* of a final order of the Justice of the Peace Court pursuant to 10 *Del. C.* § 9571. Appellee, Defendant-Below, Delwood Trailer Sales, has moved to dismiss the appeal for lack of jurisdiction. In this regard, the appellee contends that the appellant violated the mirror image rule when he joined Ronnie Lloyd as an extra party to the appeal as Mr. Lloyd was not involved in the action in the court-below. The appellant has moved to amend his notice of appeal to remove Ronnie Lloyd as a party to the appeal. After conducting a hearing on the motions, this correspondence constitutes the Court's decision. The Court grants the appellee's motion to dismiss the appellant's appeal for lack of jurisdiction because the appellant violated the "mirror image rule" when he joined an extra party to the appeal who was not involved in the action in the

court-below. Additionally, the appellant's motion to amend his notice of appeal to remove Ronnie Lloyd as a party to the appeal is denied as being untimely filed.

Section 9571 of Title 10 of the Delaware Code provides that a party can file a civil appeal from a final order of the Justice of the Peace Court to the Court of Common Pleas for a trial *de novo*. Court of Common Pleas Civil Rule 72.3 provides the procedures an appellant must follow for the perfection of such an appeal. In paragraph (f), that rule provides that “[a]n appeal to [the Court of Common Pleas] that fails to join the identical parties and raise the same issues that were before the Court below shall result in a dismissal on jurisdictional grounds.” Court of Common Pleas Civil Rule 72.3(f). The requirements of Court of Common Pleas Civil Rule 72.3(f) are known as the “mirror image rule.” If a party fails to comply with the “mirror image rule,” the Court of Common Pleas has no jurisdiction over the appeal and it must be dismissed. “The purpose of [the mirror image rule] is to ‘prevent this [C]ourt from acquiring subject matter jurisdiction over an appeal *de novo* from the Justice of the Peace Court, unless the appeal from the court below contains the identical: 1) parties, 2) character or right in which the parties are sued, and 3) cause and form of action.’” *Four Corners Fin. Group v. Augeley*, 2011 WL 3655149, at *5 (Del. Com. Pl. Aug. 3, 2011).

In this case, the defendant in the court-below was “Delwood Trailer Sales, Inc.”. However, the current appeal filed by the appellant names the appellee as “Ronnie Lloyd-Delwood Trailer Sales.” As such, the appellant has added Ronnie Lloyd, who is presumably affiliated with Delwood Trailer Sales, as a party to his appeal. The “mirror image rule” requires that the parties in the appeal be identical to those in the case in the court-below. To permit the addition of a new party as a defendant, such as attempted in this case, would prejudice the new party as a judgment could be entered against him as

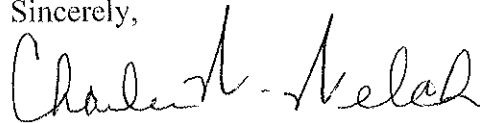
the result of an appeal for a matter in which he was not involved as a party in the court-below.

The appellant admits that he added Ronnie Lloyd as a party to his appeal in error and has filed a motion to amend his notice of appeal to correct the parties. However, the motion was filed after the fifteen day time limit permitted to perfect an appeal to this Court from the decision of the court-below. Therefore, the motion must be denied. See *Machulas v. Overcamp*, 2003 WL 22931391, at *2 (Del. Com. Pl. Aug. 15, 2003).

In summation, the appellant has added Ronnie Lloyd as a new party to his appeal. Such an addition prejudices Ronnie Lloyd as he was not a party to the original action in the court-below. Since the appellant has failed to name the correct parties in his appeal pursuant to Court of Common Pleas Civil Rule 72.3(f), this Court lacks jurisdiction over it. As such, the appeal is dismissed without prejudice.

IT IS SO ORDERED.

Sincerely,

A handwritten signature in black ink that reads "Charles W. Welch, III". The signature is written in a cursive style with a large initial "C" and "W".

Charles W. Welch, III

CWW:mek