

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|----------------------|---|------------------------------|
| ADRIENNE BERRY, | § | |
| | § | No. 152, 2013 |
| Plaintiff Below, | § | |
| Appellant, | § | |
| | § | Court Below: Superior Court |
| v. | § | of the State of Delaware, |
| | § | in and for New Castle County |
| STATE FARM MUTUAL | § | |
| AUTOMOBILE INSURANCE | § | |
| COMPANY and SIOBHAIN | § | |
| KETHLEEN SULLIVAN, | § | C. A. N11C-02-102 CEB |
| | § | |
| Defendants Below, | § | |
| Appellees. | § | |

Submitted: October 21, 2013

Decided: October 23, 2013

Before **STEELE**, Chief Justice, **BERGER** and **JACOBS**, Justices.

ORDER

This 23rd day of October 2013, it appears to the Court that:

1. On September 30, 2013, the Clerk having issued a Notice directing appellant to show cause why this appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for appellant's failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order. On October 10, 2013 appellant filed a response to the Notice to Show Cause. On October 21, 2013 appellees filed their response to the appellant's answer to the Notice to Show Cause.

2. Appellant acknowledges that, before filing her appeal, she filed a motion for a new trial in the Superior Court. That motion has not been decided. A judgment is not final for purposes of an appeal when the trial court has a motion for a new trial under consideration. See: *Lexington Insurance Co., v. Conagra Foods, Inc.*, 2013 WL 429094 (Del. Supr.).

4. Since the requirements of Supreme Court Rule 42 have not been met by appellant, the appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, that the within appeal be and hereby is DISMISSED pursuant to Supreme Court Rules 29(b) and 42.*

BY THE COURT:

/s/ Carolyn Berger
Justice

* The dismissal of this appeal does not preclude the appellant from filing a notice of appeal once a final order has issued from the Superior Court.