

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLOTTE STANLEY, ¹	§
	§
Respondent Below-	§ No. 260, 2011
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
DAVID J. REED,	§ in and for New Castle County
	§ File No. CN09-04138
Petitioner Below-	§ Petition No. 09-28371
Appellee.	§

Submitted: June 6, 2011
Decided: June 22, 2011

Before **HOLLAND, BERGER, and JACOBS**, Justices.

ORDER

This 22nd day of June 2011, it appears to the Court that:

(1) On May 17, 2011, the Court received appellant's notice of appeal from a Family Court order dated April 12, 2011. The Family Court's order entered a default custody order in favor of the appellee. The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.² Appellant filed a response to the notice to show cause on June 6, 2011.

¹ The Court previously assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

² Del. Supr. Ct. R. 6(a)(ii).

(2) After reviewing the Family Court docket in this case, it appears that the appellant timely filed a motion for new trial on April 25, 2011.³ The timely filing of a motion for a new trial in a civil case tolls the finality of a judgment and also, therefore, the time period for filing an appeal to this Court.⁴ Accordingly, the Family Court's April 12th order, in fact, is interlocutory, its finality having been suspended by appellant's timely motion for new trial. Absent compliance with Supreme Court Rule 42, this Court has no jurisdiction to hear this interlocutory appeal. Appellant may refile her appeal, if necessary, after the Family Court rules upon her motion for new trial. If Appellant files a subsequent appeal, the filing fee will be waived.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

³ Initially, it appeared that appellant's motion for new trial was not filed within the ten day period required by Family Court Rule 59(e) because it was not filed by April 22, 2011. April 22, however, was a State holiday and, thus, appellant had until April 25th to file her motion for new trial.

⁴ *Katcher v. Martin*, 597 A.2d 352, 252 (Del. 1991).