

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAZEL D. PLANT and ARTHUR L. SCOTT,	§
	§ No. 297, 2002
	§
Defendants Below-	§
Appellants	§
	§
v.	§
	§ Court Below—Superior Court
STATE ex rel. FRANK SIMS,	§ of the State of Delaware,
	§ in and for New Castle County
Plaintiff Below-	§ C.A. No. 02M-01-056
Appellee,	§
	§
and	§
	§
WAYNE A. SMITH, et al.,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: June 24, 2002  
Decided: July 2, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices.

**ORDER**

This 2<sup>nd</sup> day of July 2002, upon consideration of the appellants' answer to the Rule to Show Cause and the appellees' respective responses thereto, it appears to the Court that:

(1) The appellants, State Representatives Hazel D. Plant and Arthur L. Scott, filed this appeal from a Superior Court order dated April 23, 2002, which transferred the case to the Court of Chancery pursuant to title 10,

section 1902 of the Delaware Code. The Clerk of this Court issued a Rule to Show Cause directing the appellants to show cause why the appeal should not be dismissed as being interlocutory. The appellants' response does not address the interlocutory nature of the Superior Court's order, but instead addresses the merits of the issues the appellants apparently wish to raise on appeal.

(2) The Court has considered the matter carefully and has determined that this appeal must be dismissed. The Superior Court's order transferring jurisdiction to the Court of Chancery is, by its terms, interlocutory in nature because it is not a final ruling on the merits of the underlying controversy.<sup>1</sup> This case is ongoing in the Court of Chancery. The Superior Court's order, if appealable at all, is subject to the provisions of Supreme Court Rule 42 regarding interlocutory appeals.<sup>2</sup> The appellants have made no attempt to comply with the provisions of Supreme Court Rule 42. Accordingly, this matter must be dismissed.

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<sup>1</sup> *Whitney v. State Farm Mut. Auto Ins. Co.*, Del. Supr., No. 315, 1985, Horsey, J. (May 29, 1986).

<sup>2</sup> *Nicholson v. Redman*, Del. Supr., No. 62, 1993, Moore, J. (Mar. 16, 1993).

NOW, THEREFORE, IT IS ORDERED that this matter is hereby  
DISMISSED.

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice