

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LIFENG L. HSU,	§	
	§	No. 325, 2007
Appellant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
GREAT SENECA FINANCIAL	§	
CORP., a Maryland corporation,	§	
assignee of Madison Street	§	
Investments, Assignee of Chase	§	
Manhattan Bank,	§	
	§	
Appellee Below,	§	C.A. No. 06A-07-005
Appellee.	§	

Submitted: July 24, 2007

Decided: October 25, 2007

**ORDER**

This 25th day of October 2007, upon consideration of the Clerk's notice to show cause and the appellant's response to the notice, it appears to the Court that:

(1) On June 29, 2007, the appellant, Lifeng L. Hsu (Hsu), filed an appeal from the Superior Court's order of June 7, 2007 in a Court of Common Pleas debt action that Hsu had appealed to the Superior Court.

The Superior Court's order in part remanded Hsu's case for further proceedings in the Court of Common Pleas.<sup>1</sup>

(2) On July 16, 2007, the Clerk issued a notice directing that Hsu show cause why the appeal should not be dismissed for his failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order.<sup>2</sup> Absent compliance with Supreme Court Rule 42, this Court does not have jurisdiction to consider an appeal from an interlocutory order.<sup>3</sup>

(3) In Delaware, an order of remand is interlocutory if it requires further action of a discretionary nature.<sup>4</sup> Therefore when filing an appeal from an interlocutory order of remand, the appellant must comply with the requirements of Supreme Court Rule 42.<sup>5</sup>

(4) Hsu's response to the notice to show cause indicates that he understands that the Superior Court remanded his case to the Court of Common Pleas for additional fact-finding proceedings. Hsu also

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<sup>1</sup> See *Hsu v. Great Seneca Fin. Corp.*, Del. Super., C.A. No. 06A-07-005, Johnson, J. (June 7, 2007) (order) (affirming in part, reversing in part and remanding for further proceedings).

<sup>2</sup> See Del. Supr. Ct. R. 29(b) (governing involuntary dismissal upon notice of the Court).

<sup>3</sup> Del. Supr. Ct. R. 42(a); *Werb v. D'Allessandro*, 606 A.2d 117 (Del. 1992).

<sup>4</sup> *Mayor of Elsmere v. DiFrancesco*, Del. Supr., No. 360, 2007, Holland, J. (Sep. 21, 2007) (citing *McClelland v. Gen. Motors Corp.*, 214 A.2d 847 (Del. 1965)).

<sup>5</sup> *Id.*

acknowledges correctly that the additional fact-finding proceedings will culminate in a discretionary ruling by the Court of Common Pleas.

(5) Hsu explains in his response to the notice to show cause that he mistakenly believed that, for the purpose of an appeal, a remand for a fact-finding proceeding is a final order. Hsu states that he does not object “to the dismissal of this appeal if it is found appropriate to have it dismissed because of the procedural requirements” of Supreme Court Rule 42.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 29(b) and 3(b)(2),<sup>6</sup> that the dismissal of this appeal is unopposed, and the appeal is DISMISSED for Hsu’s failure to comply with Supreme Court Rule 42 when taking an appeal from an interlocutory order.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>6</sup> See Del. Supr. Ct. R. 3(b)(2) (providing that a single justice may enter unopposed dismissal of appeal).