**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

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| JOSEPH BOWEN,<br><br>Appellant<br><br>v.<br><br>LOUISE NOBLE, GLENN F. KIEFER, JR., MARY ANN DAVIES AND CELIA WOZNIAK,<br><br>Appellees | IN THE SUPERIOR COURT OF PENNSYLVANIA<br><br>No. 1177 MDA 2012 |

Appeal from the Order of May 29, 2012,
in the Court of Common Pleas of Susquehanna County,
Civil Division at No. 2011-375

BEFORE: SHOGAN, OTT and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.: Filed: March 12, 2013

This is an appeal from a May 29, 2012, order entered in the Court of Common Pleas of Susquehanna County. We quash this appeal.

The relevant background underlying this matter can be summarized in the following manner. Appellant filed an action to quiet title against Appellees. On May 29, 2012, Appellees filed a "Petition to Compel Discovery and for Imposition of Fees and Costs" ("the Petition"). According to the Petition, Appellant was scheduled to be deposed on May 24, 2012. The Petition alleged that, on the morning of the deposition, Appellant's counsel phoned Appellees' counsel, stating that Appellant was too ill to attend the

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*Retired Senior Judge assigned to the Superior Court.

deposition. The Petition requested that the court provide to Appellees the following relief: An order directing Appellant and/or his counsel to pay for fees and costs associated with the scheduled deposition, as well as attorney's fees incurred in litigating the Petition; an order directing Appellant and/or his counsel to produce documentation of Appellant's illness; and an order directing Appellant and/or his counsel to reschedule Appellant's deposition. On the same day that Appellees filed the Petition, the trial court issued an order that, in relevant part, directed Appellant and/or his counsel to reschedule Appellant's deposition.

On May 31, 2012, Appellant filed a motion for reconsideration of the May 29th order. According to this motion, Appellees presented the Petition to the trial court *ex parte*. Appellant ultimately requested that the court reverse its decision to require him to reschedule the deposition. On the same day that he filed his motion for reconsideration, Appellant also filed an answer and new matter to the Petition wherein Appellant essentially asked that the court deny Appellees the relief they sought in the Petition. On June 4, 2012, the trial court denied Appellant's motion for reconsideration.

On June 26, 2012, Appellant filed a document that he styled as an amended motion for reconsideration of the May 29th order. Based upon a letter attached to the amended motion, Appellant asserted that he should not be required to participate in an oral deposition. Ellis Rucker, M.D., allegedly authored the letter and sent it to Appellant's counsel. The letter asserts that, as late as May 17, 2012, Appellant's blood pressure was at an acceptable level. The letter than states as follows:

> You have advised me that an oral deposition involving the appearance of [Appellant] at a lawyer's office to answer questions under oath in the presence of other people involved in the litigation was scheduled for Thursday, May 24, 2012, one week after his last visit with me. You further advised me that one hour prior to the time of deposition, you spoke with [Appellant's wife], who related to you that [Appellant] was suffering from significant stress occasioned by the scheduled deposition, and that a reading of [Appellant's] blood pressure at that time was 180/85. Further, when notified that the deposition had been cancelled, [Appellant's] stress level was greatly reduced, and his blood pressure rapidly returned to the acceptable numbers stated above.
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> Assuming that this information is correct, and considering [Appellant's] age (77) and general health conditions, I feel that the anxiety created by the deposition was the cause of [Appellant's] stress and dangerous elevation in his blood pressure with the attendant risk of his having a stroke or heart attack either of which could easily be fatal.
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> For this reason, it is my strong recommendation that [Appellant] not be subjected to the stress of being compelled to testify at a deposition, and that whatever information as might be gained from him be obtained in some other manner.

Amended Motion for Reconsideration, 06/26/12, Exhibit A. The court denied this motion, and Appellant filed a notice of appeal on June 27, 2012, wherein he stated his intent to appeal the May 29th order.

In his brief to this Court, Appellant asks that we consider several questions. In part, Appellant argues that the appeal is properly before the Court.

Generally speaking, this Court has jurisdiction to entertain appeals from final orders. 42 Pa.C.S.A. § 742. Appellant does not dispute that the

May 29th order is not a final order. Instead, he contends that the order is an appealable collateral order.

"An appeal may be taken as of right from a collateral order of an administrative agency or lower court." Pa.R.A.P. 313(a). The collateral order doctrine "conveys the right to appeal . . ., provided that the party appealing has satisfied the three-pronged prerequisite: (1) the order must be separable from and collateral to the main cause of action; (2) the right involved must be too important to be denied review; and (3) if review is postponed, the claim will be irreparably lost." ***Commonwealth v. Dennis***, 859 A.2d 1270, 1277 (Pa. 2004); Pa.R.A.P. 313(b). Importantly, the collateral order doctrine is to be construed narrowly; every one of its three prongs must clearly be present before collateral appellate review is allowed. ***Rae v. Pennsylvania Funeral Directors Association***, 977 A.2d 1121, 1126 (Pa. 2009).

In addressing the second prong of this test, Appellant simply asserts, "As demonstrated by the letter of the treating physician of [Appellant], the 'right involved' is the right of [Appellant] to be spared being required to participate in a literally life threatening event." Appellant's Brief at 9.

This Court has explained, "[u]nder the second prong, in order to be considered too important to be denied review, the issue presented must involve rights deeply rooted in public policy going beyond the particular litigation at hand." ***Mortgage Electronic Registration Systems, Inc. v. Malehorn***, 16 A.3d 1138, 1142 (Pa. Super. 2011) (citation and quotation marks omitted). Here, the issue presented, *i.e.*, whether the trial court

abused its discretion by ordering Appellant to reschedule his deposition, does not involve a right deeply rooted public policy going beyond the parties to this litigation.

Because the second prong is not clearly present in this case, appellate collateral review is not permitted. Consequently, we quash this appeal.

Appeal quashed.