

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

CLAIRE SPINK

Appellant

v.

LEAH (MCDOWELL) SPINK  
(MCDONNELL), TRUSTEE,  
JACK SPINK (DECEASED) ESTATE

Appellee

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1520 WDA 2013

Appeal from the Order August 26, 2013  
In the Court of Common Pleas of Allegheny County  
Family Court at No(s): FD 88-005329

BEFORE: GANTMAN, P.J., ALLEN, J., and STABILE, J.

JUDGMENT ORDER BY GANTMAN, P.J.:

**FILED MAY 28, 2014**

Appellant, Claire Spink, appeals *pro se* from the order entered in the Allegheny County Court of Common Pleas, which dismissed Appellant's petition for special relief. We affirm.

An appellant must timely comply whenever the trial court orders a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). ***Commonwealth v Lord***, 553 Pa. 415, 719 A.2d 306 (1998). "[F]ailure to comply with the minimal requirements of Rule 1925(b) will result in **automatic waiver** of the issues raised." ***Greater Erie Indus. Development Corp. v. Presque Isle Downs, Inc.***, 2014 PA Super 50, \*2 (filed March 11, 2014) (*en banc*) (emphasis in original). "[O]ur Supreme Court does not countenance anything less than stringent application of

waiver pursuant to Rule 1925(b).” **Id.** In civil cases, the Rule requires: (1) the trial court must issue a Rule 1925(b) order directing an appellant to file a response within twenty-one days of that order; (2) the trial court must file the order with the prothonotary; (3) the prothonotary must enter the order on the docket; (4) the prothonotary must give written notice of the entry of the order to each party, pursuant to Pa.R.C.P. 236; and (5) the prothonotary must record Rule 236 notice on the docket. **See *Forest Highlands Community Ass’n v. Hammer***, 879 A.2d 223, 227 (Pa.Super. 2005).


Instantly, Appellant filed her notice of appeal on September 18, 2013. On September 25, 2013, the court entered an order, with Rule 236 notice, directing Appellant to file a Rule 1925(b) concise statement of errors complained of on appeal within twenty-one days of entry of the order. Appellant’s statement was due on or before October 16, 2013. Appellant did not comply. The trial court issued its opinion on November 7, 2013, concluding Appellant had waived her issues for failure to file a court-ordered Rule 1925(b) statement. The court observed Appellant’s failure was intentional: “[Appellant] called my chambers stating to my staff that she would not file a Statement of Matters Complained of because the requirement was ‘unfair.’” (**See** Trial Court Opinion, filed November 7, 2013, at 2).

Given that the trial court directed Appellant to file a Rule 1925(b) statement and strictly followed the proper filing and notice procedures, and

given that Appellant failed to comply with the court's order, we agree Appellant waived her issues.<sup>1</sup> Accordingly, we affirm. **See generally In re K.L.S.**, 594 Pa. 194, 197 n.3, 934 A.2d 1244, 1246 n.3 (2007) (stating where issues are waived on appeal, we should affirm rather than quash appeal).

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 5/28/2014

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<sup>1</sup> In her brief on appeal, Appellant contends she mailed her Superior Court docketing statement to the trial court judge in lieu of filing a Rule 1925(b) statement in the trial court and concurrently serving the trial judge. Appellant attaches a United States Postal Service Form 3817, Certificate of Mailing postmarked October 23, 2013, which is twenty-eight days after the trial court directed the filing of the Rule 1925(b) statement. Appellant concludes her issues are not waived. Appellant provides no legal support for the proposition that a docketing statement satisfies the requisites of Rule 1925(b). Moreover, there is no indication Appellant filed the docketing statement in the trial court.