

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

DELORES BALTIMORE,	)	
	)	
Appellant/Plaintiff-Below,	)	
	)	
v.	)	C.A. No. CPU5-12-000757
	)	
ROBERT WILSON, SR., OWNER	)	
Goodyear Admiral Tire and Auto Center	)	
	)	
Appellee/ Defendant-Below.	)	

ORDER OF DISMISSAL
FOR LACK OF SUBJECT MATTER JURISDICTION

AND NOW THIS 30th day of January, 2014, the Court, having reviewed its file for this matter, including all documents filed by the parties and the copy of the record of the Justice of the Peace Court, finds as follows:

1. That the Appellant/Plaintiff-Below, Delores Baltimore, filed a debt action against the Defendant-Below, Dominic Gollie, in the Justice of the Peace Court for problems that she had with her automobile after Goodyear Admiral Tire and Auto Center work on it. After trial for this matter, the Justice of the Peace Court issued a written order indicating that the correct defendant for the matter was Admiral Tire and Auto Center. Therefore, Dominic Gollie was removed from the case at the onset of the trial and Admiral Tire and Auto Center proceeded as the defendant. The Justice of the Peace Court found that the plaintiff failed to meet the burden of proof to prevail on her action and judgment was entered for the defendant.

2. That the appellant appealed this matter to this Court in a timely manner. As the party having the duty of filing the complaint on appeal, the appellant filed such a pleading with the notice of appeal, along with a praecipe and summons on appeal. However, in her notice of appeal, praecipe and complaint, the appellant named Robert Wilson, Sr., as a party defendant in the case.

3. That rules of procedure are administered so as to secure the just determination of every proceeding. *Nti v. Hall*, 2007 WL 3231601, at *1 (Del. Com. Pl. Aug. 24, 2007). Under Delaware law, subject matter jurisdiction is “an indispensable ingredient of a judicial proceeding.” *Textel v. Commercial Fiberglass, et al.*, 1987 WL 19717, at *1 (Del. Super. Nov. 3, 1987). Subject matter jurisdiction is a question of law that can be raised by the Court *sua sponte* at any time. Ct. Com. Pl. Civ. R. 41(e). It can neither be waived nor conferred by consent of the parties. *Textel*, 1987 WL 19717, at *2.

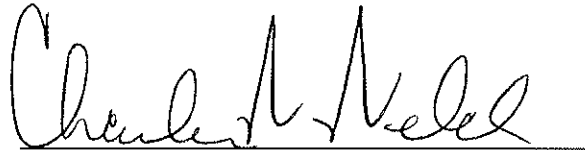
4. Court of Common Pleas Civil Rule 72.3(f) provides that “[a]n appeal to this Court that fails to join the identical parties and raise the same issues that were before the Court below shall result in a dismissal on jurisdictional grounds.” This provision is commonly known as the “mirror image rule.”

5. The current action on appeal violates the “mirror image rule” insofar as the appellant has failed to join the identical parties to the appeal that litigated this action in the Justice of the Peace Court. Goodyear Admiral Tire and Auto Center was the defendant in this action when it was litigated in the Justice of the Peace Court. Robert Wilson, Sr., was not listed as a party in the action when it was litigated in Justice of the Peace Court. The addition of Robert Wilson, Sr., as a party defendant in the appeal prejudices him as he would be facing personal liability if the case were to continue as

appealed. He did not face such liability in Justice of the Peace Court. Accordingly, the Court finds that the appeal before this Court for the above-captioned matter must be dismissed for lack of subject matter jurisdiction.

WHEREFORE, IT IS HEREBY ORDERED, that the appellant's appeal for the above-captioned matter is dismissed as this Court lacks subject matter jurisdiction over it.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Charles W. Welch, III". The signature is written in a cursive, flowing style with a horizontal line underneath it.

Charles W. Welch, III
Judge