IN THE JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY
COURT NO. 16

COURT ADDRESS:
480 BANK LN
DOVER DE 19904

CIVIL ACTION NO: JP16-11-002778

JEAN C. FLANAGAN TRUST V. ROBERT FLANAGAN

SYSTEM ID: 003051
PAUL ENTERLINE
113 SOUTH RACE STREET
P.O. BOX 826
GEORGETOWN DE 19947

ORDER

Civil Action JP16-11-002778 has been scheduled for a trial de novo this date before Judge Arndt, Judge Sherlock, and Judge Wall. There were preliminary applications and arguments. The Court retired for deliberation prior to ruling.

The two issues presented to the Court were prioritized,
First, are the pleadings sufficient or fatally flawed?
Second, if the pleadings are fatally flawed, is the Plaintiff precluded from amending the Plaintiff party at interest at the appeal-trial de novo.

The Court rules that the initial pleading with an incorrect party at interest, admitted in Court, is fatally flawed for failure to correctly name the Plaintiff party at interest. Although J.P. Civil Rules 15 and 17 permit amendment prior to trial, this is not a trial but a trial de novo [and Rule 15 requires the application to amend be made in writing.] There would be no appeal from the Court's ruling if the substitution of parties were granted.

By unanimous decision:
Amendment of the pleading is denied.
The original decision dated September 8, 2011 is Void.
The bond posted by the Defendant is ordered returned to the Defendant.

IT IS SO ORDERED this 06th day of October, 2011

_____(SEAL)
Judge Ernst M. Arndt

IT IS SO ORDERED this 06th day of October, 2011

_____(SEAL)
Judge Michael P. Sherlock

IT IS SO ORDERED this 06th day of October, 2011

_____(SEAL)
Judge Robert B. Wall Jr.

6CF14J (Rev. 9/15/04)