IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

MAUREEN BINKLEY,)	
PETER D. COKER,)	
)	
Defendants-Below Appellants,)	
)	
V.)	CPU4-10-006901
)	
DOMINIC BORGIA,)	
WILLIAM BONEY,)	
)	
Plaintiffs-Below Appellees.)	

Submitted: November 19, 2012 Decided: December 6, 2012

Maureen Binkley, Pro Se 63 Lisa Drive Newark, DE 19702 Defendant-Below Appellant

Peter Coker, Pro Se 24 Mapledale Road Dover, DE 19904 Defendant-Below Appellant Dominic Borgia, Pro Se 64 W. 9th Street, 2R New York, NY 10011 Plaintiff-Below Appellee

William Boney, Pro Se 10 Granbury Drive New Castle, DE 19720 Plaintiff-Below Appellee

Brian J. Chapman, Esquire Attorney-At-Law 1232 N. King Street, Suite 300 Wilmington, DE 19801 Attorney for Boney-Below Appellee

CASE STATUS AND SCHEDULING ORDER

COMES NOW, the Court finds as and orders as follows:

- 1) This is a *de novo* appeal docketed on November 12, 2010 from an order and decision of the Justice of the Peace Court dated October 29, 2010.
- 2) The proceeding which commenced in the Justice of the Peace Court was filed as two separate actions, and appear as follows:
 - (a) On October 22, 2009, Dominic Borgia brought a debt action against Maureen Binkley and Peter Coker for \$2,500.00 and costs. This action is docketed in Case # JP13-09-016770.
 - (b) On October 28, 2009, William J. Boney brought a debt action against Maureen Binkley for \$4,250.00, cost, and attorney fees. This action is docketed in Case # JP13-09-017097.
 - (c) In Case JP13-09-016770, the Justice of the Peace Court on July 28, 2010 entered a Default Judgment against Binkley and Coker for \$2,668.24 because they failed to timely file an answer or appear for trial.
 - (d) In Case JP13-09-017097, the Justice of the Peace Court on October 28, 2010 granted judgment by directed verdict against Binkley on the basis of an executed promissory note. Judgment was entered for Boney for \$4,250.00, \$60.00 Court cost, \$1,475.00 attorney fees, and post-judgment interest at 5.75% per annum.
 - (e) On August 2, 2010, Binkley moved to consolidate both cases on the basis that the debt in both cases was incurred by her to pay monies for Coker for child support arrears. The motion was docketed in Case #JP13-09-016770.

- (f) On October 28, 2010, the Justice of the Peace Court in JP13-09-016770 also treated the August 2, 2010 filing as a motion to vacate the default judgment entered July 28, 2010. Following a hearing, the Court denied the motion to vacate the default.
- 3) Binkley filed a notice of appeal in this Court from both Justice of the Peace Court judgments on November 12, 2010.
- 4) Service was made on Dominic Borgia by certified mail on April 11, 2011, and service was made on Peter Coker by personal service on October 19, 2012. As of date, no service has been made on William Boney, notwithstanding several attempts.
- 5) On June 3, 2011, Dominic Borgia filed a Complaint on appeal. The complaint only encompasses the debt action in JP13-09-016770 for the sum of \$2,668.24. The Complaint is brought against Maureen Binkley and Peter Coker, defendants.
- 6) On April 28, 2011, Binkley filed a motion to stay execution proceeding in the Justice of the Peace Court without bond. The motion was withdrawn on April 29, 2011. The motion was re-noticed to August 8, 2011.
- 7) On August 6, 2012, Binkley filed a motion to dismiss. As a basis for the motion, Binkley alleged she is not responsible for the amounts awarded in the Justice of the Peace Court judgments because all the funds were paid on behalf of Coker to his wife for delinquent child support ordered by the Family Court.
- 8) On October 23, 2012, Binkley filed a motion requesting that the Court review Coker's civil history pattern to show Coker's propensity for evading his debts.

9) On November 28, 2012, Binkley filed with the Court a document which appears to be an offer of settlement with Coker for the judgment awarded in Justice of the Peace Court Case # JP13-09-016770.

THEREFORE, IT IS ORDERED AS FOLLOWS:

A. Binkley has failed to file an answer to Borgia's complaint of June 3, 2011. Therefore, unless this matter is settled, she is required to file an Answer which conforms to Court of Common Pleas *Civil Rule 8(b)*, and *Civil Rule 12(a)*. The Answer shall be filed by December 28, 2012.

B. Peter D. Coker has failed to file an answer to Borgia's complaint of June 3, 2011. Therefore, unless this matter is settled, Coker is required to file an Answer which conforms to Court of Common Pleas *Civil Rule 8(b)* and *Civil Rule 12(a)*. The Answer shall be filed by December 28, 2012.

C. William J. Boney, who was represented by Brian Chapman, Esquire in the Justice of the Peace Court in Case # JP13-09-017097 has not been served as of date. Therefore, the appeal in this matter cannot proceed until he is served.

D. Binkley's motion to dismiss seeks to have her eliminated from the proceedings on the basis the proceeds of the loan were provided to Coker for child support debts. Consideration of the motion at this time is premature and not ripe for decision. Therefore, the motion is Denied without prejudice.

SO ORDERED

Alex J. Smalls

Chief Judge