

**IN THE COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**

**ORDER AMENDING RULE 72.3  
OF THE COURT OF COMMON PLEAS  
RULES OF CIVIL PROCEDURE**

This 19<sup>th</sup> day of February, 2009, IT IS ORDERED that:

- 1) Court of Common Pleas Civil Rule 72.3 is amended by deleting the material in brackets and including the material underlined, as follows:

**Rule 72.3. Appeals de novo.**

(a) *Application of the Rule.* This rule shall apply to appeals de novo from the Justice of the Peace Court to the Court of Common Pleas.

(b) *How taken.* When an appeal de novo is permitted by law, an action is commenced in the Court of Common Pleas by the appellant filing with the Court a notice of appeal within the time prescribed by statute for the filing of an appeal. If no time is prescribed by the statute, the notice of appeal shall be filed within 15 days from the entry of the final judgment, order, or disposition from which an appeal is permitted by law. When the appellant is the party having the duty of filing the complaint or other first pleading on appeal, the appellant shall file such pleading with the notice of appeal, a praecipe and a summons on appeal. When the appellee is the party having the duty of filing the complaint or other first pleading on appeal, the appellee shall serve a copy of such pleading within 20 days after service of the process on appeal, and thereafter the pleading shall proceed as in other actions.

(c) *Notice of Appeal.* The notice of appeal shall specify the parties taking the appeal, shall designate the order, award, determination, or decree, or part thereof appealed from; shall state the grounds of the appeal; shall name the Court to which the appeal is taken; and shall be signed by the attorney for the appellants, or, if the appellants are not represented by an attorney, shall be signed by the appellants.

(d) *Docketing.* Upon the acceptance of the filing, the clerk shall enter into the record a notation that the case is on appeal. [No appeal shall be entered by a Clerk on the docket until a certified copy of the notice of appeal filed with the Justice of the Peace Court is filed with the Court.]

(e) *Record; Stay.* The appellant shall, within 10 calendar days, file a notice of appeal with the Justice of the Peace Court to stay the record. The record on appeal shall constitute the record below as of the time of the filing of the notice of appeal. [Process shall not issue until a certified copy of the notice of appeal to the Justice of the Peace Court has been filed with the Court.] There shall be no stay of execution or other proceedings below unless ordered by this Court pursuant to Rule 62(c).

(f) *Jurisdiction.* An 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. Compliance with paragraph (d) of this Rule shall constitute transfer of jurisdiction of the civil action from the Justice of the Peace Court to the Court of Common Pleas.

2) This amendment is effective March 9, 2009.

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Alex J. Smalls  
Chief Judge

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William C. Bradley, Jr.  
Judge

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John K. Welch  
Judge

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Rosemary B. Beauregard  
Judge

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Kenneth S. Clark, Jr.  
Judge

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Charles W. Welch, III  
Judge

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Joseph F. Flickinger, III  
Judge