

**IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE**  
**IN AND FOR SUSSEX COUNTY**

|                      |   |                    |
|----------------------|---|--------------------|
| CHRISTINA PAOLI,     | ) |                    |
|                      | ) |                    |
| Appellant/Defendant  | ) | C.A. No. 04-11-096 |
| Below,               | ) |                    |
|                      | ) |                    |
| vs.                  | ) |                    |
| SUN COMMUNITIES      | ) |                    |
| DBA SEA AIR VILLAGE, | ) |                    |
|                      | ) |                    |
| Appellee/Plaintiff   | ) |                    |
| Below.               | ) |                    |

Submitted December 14, 2004  
Decided January 5, 2005

Christina Paoli, *Pro Se*, Appellant/Defendant  
Michael Malkiewicz, Esquire, counsel for Appellee/Plaintiff

**DECISION ON APPEAL FROM COMMISSIONER'S  
RECOMMENDATION**

Appellant, Christina Paoli, appeals the Commissioner's recommendation that her appeal from the Justice of the Peace Court's (hereinafter, "J.P. Court") order staying proceedings in C.A. No. J0404004517 and C.A. No. J0407015817, be dismissed for lack of jurisdiction.

**BACKGROUND**

Appellant filed another case with this Court against the Appellee in March, 2003. Subsequently, the Appellee filed other actions in J.P. Court against Appellant. The appeal currently before this Court stems from the suits filed by the Appellee in the J.P. Court.

The complaint filed by the Appellant in this Court in March, 2003 was dismissed. However, on September 20, 2004, the Court granted Appellee's motion to vacate the dismissal, and the case remains pending before this Court. On October 21, 2004, the J.P. Court ordered that the cases before it be stayed pending the outcome of the original matter pending in this Court. The Appellant appealed the stay order. The Commissioner recommended that the appeal be dismissed for lack of jurisdiction because the order to stay the proceedings was not a final order. The Appellant now appeals the Commissioner's recommendation.

#### **STANDARD OF REVIEW**

A recommendation to dismiss an appeal for lack of jurisdiction is a case-dispositive matter. When reviewing case-dispositive matters the judge of the Court reviews the decision *de novo*. CCP Civ. R. 112 (A)(4)(iv).

#### **DISCUSSION**

Under 10 *Del.C.* § 9571 (a), a litigant in Justice of the Peace Court may appeal "any final order, ruling, decision or judgment" of that Court to the Court of Common Pleas. This Court may properly exercise appellate jurisdiction when a party timely files an appeal from a final judgment. *Johnson Controls, Inc. v. Barkley*, 860 A.2d 810 (Del. 2004). The conclusion that an order is final rests on the determination as to whether the court below has declared its intention that the order be its final act in the case. *Id.*

The J.P. Court's order to stay the proceedings before it pending final outcome of the case on file in this Court merely postpones action by the J.P. Court in the matter. The J.P. Court did not convey an intention that the order

was its final act in the case. Thus, the J.P. Court's order to stay the proceedings below is an interim order, not a final order. This Court may not exercise appellate jurisdiction over an interim order of the J.P. Court.

### CONCLUSION

After a *de novo* review of the law and facts, I find that the Commissioner's recommendation to dismiss the appeal for lack of jurisdiction was proper. The order to stay the J.P. proceedings was not a final order. Thus, this Court does not have subject matter jurisdiction to hear the appeal. The Appellant's Motion is **DENIED**, the Commissioner's recommendation is **ACCEPTED**, and this matter is **REMANDED** to the Justice of the Peace Court.

**IT IS SO ORDERED**, this \_\_\_\_ day of January, 2005.

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Kenneth S. Clark, Jr.  
Judge