

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KEYSTONE FILLER & MANUFACTURING, Appellant	:	
	:	
	:	
v.	:	No. 05-00,132
	:	CIVIL ACTION
JAMES A. NOVINGER d/b/a NOVINGER WELDING & REPAIRS, Appellee	:	
	:	

**OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE**

The Appellant appeals this Court’s September 12, 2006 dismissal of its complaint. The Appellant filed a timely Notice of Appeal on October 5, 2006. On October 20, 2006, this Court directed the Appellant, in accordance with Pa.R.A.P. No. 1925(b), to file a Concise Statement of Matters Complained of on Appeal. On November 3, 2006 the Appellant did file, with the Prothonotary, its Concise Statement of Matters Complained of on Appeal; however, the Appellant failed to file said Statement with the trial court as required by Pa.R.A.P. No. 1925(b).

Pennsylvania Rule of Appellate Procedure 1925(b) provides that, the Court may enter an Order directing the appellant to file of record in the lower court *and serve on the trial judge* a concise statement of the matters complained of on the appeal no later than fourteen (14) days after entry of such order. (emphasis added). The Rule further provides that, the Court may consider a failure to comply with such direction as a waiver of all objections to the order, ruling, or other matter complained of. “. . . Additionally, in *Forest Highlands Community Association v. Nancy Hammer*, 2005 PA. Super. 235, 879 A.2d 223 (Pa. Super. Ct. 2005), the Superior Court of Pennsylvania held that, although an Appellant may have filed his/her concise statement with

the Prothonotary within the fourteen (14) day window under the Rule, the Appellant's failure to file said statement with the trial judge will rendered his/her complaint(s) on appeal moot.

Instantly, because the Appellant failed to fully comply with this Court's October 20, 2006 Order directing her to file, pursuant to Pa.R.A.P. No. 1925, a concise statement of matters complained of on appeal with the Prothonotary and the trial judge, this Court respectfully suggests that the Appellant has waived all issues for appeal purposes.

By the Court,

Date: _____

Nancy L. Butts, Judge

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