

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ALAN WYLAND,  
Plaintiff

vs.

THOMAS COBBS,  
Defendant

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: No. 07-00918  
:  
: CIVIL ACTION – LAW  
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**ORDER**

AND NOW, this \_\_\_ day of June 2007, this Order is entered after review of the document filed by Defendant on June 4, 2007, which the Prothonotary has docketed as a motion for preliminary injunction. Although the first word of the document is “Appeal,” the document does not state from what Order Defendant seeks to appeal and does not comply with the requirements for either an appeal to the Court of Common Pleas from the judgment entered by the magisterial district judge (MDJ) or an appeal to the Pennsylvania Superior Court from this Court’s denial of Defendant’s objection to levy.<sup>1</sup>

After the word “Appeal” the document is subdivided into four lettered subparagraphs. Paragraph 1A motions the Court for an injunction preventing Plaintiff, sheriffs, constables and Lycoming County judges from executing any judgments or levies against Defendant until he has exhausted all rights and/or appeals. Similarly, paragraph 1B requests an immediate court order preventing anyone in 1A from taking any action. The Court DENIES these requests. The Court denied Defendant’s objection to levy and

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<sup>1</sup> The time period has long since expired for a timely appeal from the MDJ judgment. At this late date, Defendant’s only manner of challenging that judgment would be to attempt to get his appeal rights reinstated by filing a motion for appeal nunc pro tunc in the Lycoming County Court of Common Pleas. Any appeal to the Pennsylvania Superior Court from this Court’s denial of Defendant’s objection to levy would need to comply with Rules 901 through 911 of the Pennsylvania Rules of Appellate Procedure.

Defendant did not file a timely appeal from the MDJ judgment. Defendant has neither pleaded nor proved any facts to show a meritorious defense to the judgment or the levy. Defendant has attempted to file an appeal nunc pro tunc to the Pennsylvania Superior Court. However, pursuant to Rule 1731(a) of the Rules of Appellant Procedure, even a timely appeal to the Superior Court from a money judgment only acts as an automatic stay or injunction if the appellant (here, Defendant) files appropriate security (cash, Treasury bills, certificates of deposit, bank letters of credit or a bond) with the clerk of the lower court (Lycoming County Prothonotary) in the amount of 120% of the amount due and unpaid.<sup>2</sup> Pa.R.App.P. 1731(a) and 1734.

Paragraph 1C requests copies of Defendant's counterclaims and all evidence from the landlord tenant case (LT-1034-06) filed before the MDJ. This court does not have any such materials.

Paragraph 1D purports to appeal nunc pro tunc to the Superior Court. As previously noted Defendant does not state from what Order he is attempting to appeal and this filing does not comply with Rules 901 through 911 of the Rules of Appellate Procedure.

By The Court,

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Kenneth D. Brown,  
President Judge

cc: Thomas Cobbs,  
c/o Lycoming County Prison

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<sup>2</sup> The amount of the initial judgment was \$1919.78. Additional costs have accrued for the issuance of the Order of execution (\$32.50) and constable costs for levying/executing on Defendant's property (\$116.91). Therefore, the total amount remaining unpaid is \$2069.19. 120% of this figure would be \$2,483.02.

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Work file  
Gary Weber, Esquire (Lycoming Reporter)