

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

<b>FRANCES L. BARNARD,</b>	:	
<b>Plaintiff</b>	:	<b>No.: 77-00, 733</b>
	:	
<b>v.</b>	:	
	:	
<b>GEORGE and MARILYN BIDLESPACHER,</b>	:	<b>CIVIL ACTION – LAW</b>
<b>GREGORY and KAREN BROWN; and</b>	:	
<b>WILLIAM and BRENDA ULRICH</b>	:	
<b>Defendants</b>	:	

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

On January 20, 2012, the Defendant in this case filed an appeal with the Superior Court. The Plaintiff then filed a cross- appeal on February 7, 2012 which was consolidated with the Defendants’ appeal. With the exception of the fourth issue raised in the Plaintiff’s concise statement of matters complained of on appeal, the Honorable Charles H. Saylor of the Northumberland County Court of Common Pleas will issue an opinion addressing the issues raised on appeal. As the Plaintiff’s fourth issued relates to a ruling by this Court, claiming that this Court erred by directing the Plaintiff to pay the Defendants’ attorneys fees as a damage covered by the preliminary bond imposition, this Opinion will address the merits of this allegation of error.

The Plaintiff alleges that this Court erred by directing the Plaintiff to pay Defendants’ attorneys fees as a damage covered by the preliminary bond imposition as this was not a proper damage to be paid by such a bond, and as the bond should have remained in effect until final disposition of all of Plaintiff’s claims. 42 Pa.C.S. §2503(10) entitles participants “[i]n such circumstances as may be specified by statute heretofore or hereafter enacted” to reasonable

counsel fees as part of the taxable costs of the matter. According to Pa.R.Civ.P. 1531(b)(1), a preliminary or special injunction shall be granted only if:

The plaintiff files a bond in an amount fixed and with security approved by the court, naming the Commonwealth as obligee, conditioned that if the injunction is dissolved because improperly granted or for failure to hold a hearing, the plaintiff shall pay to any person injured all damages sustained by reason of granting the injunction and all legally taxable costs and fees.

In this case, this Court denied the Plaintiff's request for a permanent injunction in its Opinion and Order of December 11, 2007. The Court finds that the dissolution of the Plaintiff's previously granted preliminary injunction entitled the Defendants to damages sustained by the granting of the preliminary injunction, as well as all legally taxable costs and fees.

Therefore, the Court finds that the awarding of counsel fees to the Defendant from the bond was appropriate and requests that the Superior Court affirm the Order of this Court, dated February 11, 2008, which awarded said counsel fees.

DATE: \_\_\_\_\_

By the Court,

Nancy L. Butts, President Judge

xc: Marc S. Drier, Esq.  
Bart W. Holmes, Esq.  
4311 North 6<sup>th</sup> Street  
Harrisburg, PA 17110  
Gary Weber, Esq. (LLA)