

IN THE SUPREME COURT OF OHIO

ROBERT E. MARTIN	:	
	:	Case No. 06-2340
Appellant,	:	
	:	On Appeal from the Franklin
v.	:	County Court of Appeals,
	:	Tenth Appellate District
AL MINOR & ASSOCIATES, INC.	:	
	:	Court of Appeals
Appellee.	:	Case No. 06 AP-217

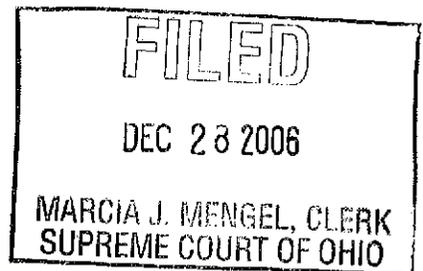
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APPELLEE AL MINOR & ASSOCIATES, INC.'S MEMORANDUM  
IN OPPOSITION TO MOTION TO STAY EXECUTION OF JUDGMENT

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Attorney for Appellee Al Minor & Associates, Inc.



Memorandum in Support

Appellant, Robert E. Martin, filed a motion for a stay of the Court of Appeals judgment in this action. Although Appellant filed the motion pursuant to S Ct. R. II, section 2, Appellee submits that the motion is governed by S Ct. R. XIV, section 4 which provides in its relevant part as follows:

“(A) . . . A motion to stay a lower court’s decision pending appeal shall include relevant information regarding bond and be accompanied by a copy of the lower court’s decision and any applicable opinion.”

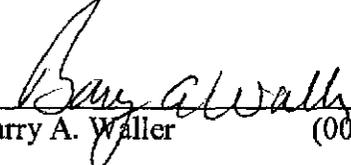
Appellant’s motion fails to provide this court with any relevant information regarding bond. As the Common Pleas Court entry reflects, the trial court, over the objection of Appellee, set bond in the amount of \$500.00, which bond expired when the Court of Appeals filed its judgment. See Exhibit 1, attached hereto.

R.C. 2505.09, provides, in relevant part, as follows:

“Except as provided in section 2505.11 or 2505.12 or another section of the Revised Code or an applicable rules governing courts, an appeal does not operate as a stay of execution until a stay of execution has been obtained pursuant to the Rules of Appellate Procedure or in another applicable manner, and a supersedeas bond is executed by the appellant to the appellee, with sufficient sureties and in such sum, not less than, if applicable, the amount of the final order, judgment or decree and interest involved, as directed by the court that rendered the final order, judgment or decree that is sought to be superseded or by the court to which the appeal is taken. Such bond shall be conditioned as provided in section 2505.14 of the Revised Code.”

The judgment entered against Appellant was in the amount of \$25,973.00. The General Assembly has clearly mandated the manner in which a judgment for money damages may be stayed. In this case, this court should only grant the stay of execution if Appellant posts a supersedeas bond in the amount of \$25,793.00 plus court costs and interest which has and will accrue while this case is pending before the Ohio Supreme Court for consideration.

Respectfully submitted,

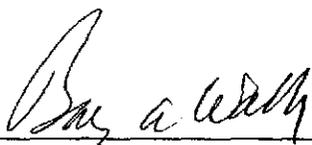
  
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Attorney for Appellee

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of Appellee Al Minor & Associates, Inc.'s Memorandum in Opposition to Motion to Stay Execution of Judgment was served upon the following person(s) by U.S. mail, postage prepaid, this 22<sup>nd</sup> day of December, 2006:

Samuel N. Lillard, Esq.  
McNees, Wallace & Nurick LLC  
Fifth Third Center  
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Columbus, OH 43215

  
Barry A. Waller (0013010)



IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

AL MINOR & ASSOCIATES, INC. :

Plaintiff, :

v. :

ROBERT E. MARTIN, et. al., :

Defendants. :

Case No. 03CVH-03-2696

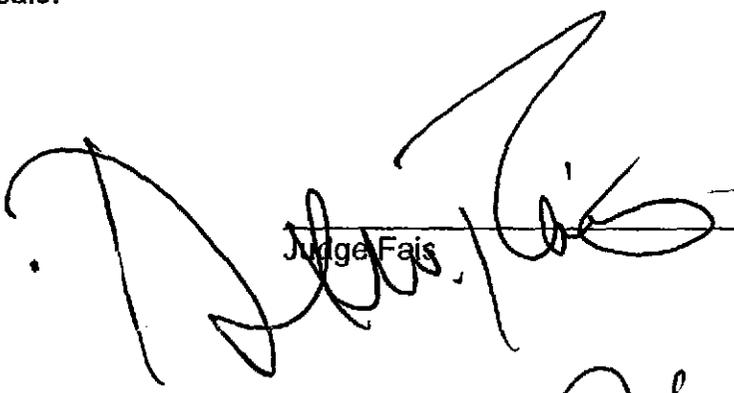
Judge D. FAIS

**ENTRY GRANTING DE MINIMUS BOND**

Now comes the Court, having reviewed Defendant's May 4, 2006 Motion for Stay of Execution of Judgment and for good cause shown, Defendant is granted a *de minimus* bond of \$500.00 to be filed pending the decision of the Tenth District Court of Appeals.

So Ordered.

Date \_\_\_\_\_

  
Judge Fais

10-26-06

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
06 OCT 27 AM 2:31  
CLERK OF COURT-CV