

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WALTER S. ROWLAND,	§	
RICHARD SCHWARTZ, and	§	No. 173, 1999
NORMAN F. WHITELEY, JR.,	§	
	§	
Plaintiffs Below,	§	Court Below: Superior Court
Appellants, Cross-Appellees	§	of the State of Delaware in
	§	and for New Castle County
v.	§	
	§	
PAUL K. AMTOWER, et. al.,	§	C.A. No. 97C-09-018 WTQ
	§	
Plaintiffs Below,	§	
Appellees, Cross-Appellants.	§	

Submitted: February 15, 2000

Decided: February 25, 2000

Before **VEASEY**, Chief Justice, **WALSH**, **HOLLAND**, **HARTNETT** and **BERGER**, Justices, constituting the Court *en Banc*.

**ORDER**

This 25<sup>th</sup> day of February 2000, the Court, having carefully considered on this appeal and cross-appeal the decisions and orders of the Superior Court dated March 26, 1998, February 26, 1999, March 30, 1999, and April 15, 1999, as well as the briefs of the parties and their contentions in oral argument, has determined as follows.

(1) Summary judgment was properly granted;

(2) To the extent that: (a) the issues raised on appeal and cross-appeal are factual, the record evidence supports the trial judge's factual findings; (b) the errors alleged on appeal and cross-appeal are attributed to an abuse of discretion, the record does not support those assertions; (c) the issues raised on appeal and cross-appeal are legal, they are controlled by settled Delaware law, which was properly applied.

(3) This Court's decision affirming the Superior Court's award of attorney's fees to appellants challenged by appellees on cross-appeal is based on the unique circumstances of this case and should not be considered precedent. *Cf. Brehm v. Eisner*, Del. Supr., \_\_ A.2d \_\_, No. 469, 1998, at 24 n.41, Veasey, C.J. (Feb. 9, 2000).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

**AFFIRMED.**

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice