

E-FILED

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Clerk, U.S. District Court, ILCD

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

OPERATIVE PLASTERERS' AND)
CEMENT MASONS' LOCAL #18)
ANNUITY FUND, OPERATIVE)
PLASTERERS' AND CEMENT)
MASONS' LOCAL # 18 PENSION)
FUND, and CEMENT MASONS')
LOCAL # 18 AREA #539)
APPRENTICESHIP AND TRAINING)
FUND,)

Plaintiffs,)

v.)

J.P. PHILLIPS, INC,)

Defendant and Third Party)
Plaintiff,)

v.)

OPERATIVE PLASTERERS' AND)
C E M E N T M A S O N S ')
INTERNATIONAL ASSOCIATION)
OF THE UNITED STATES AND)
CANADA, AFL-CIO, LOCAL #18,)

Third Party Defendant.)

NO. 06-3232

OPINION

RICHARD MILLS, U.S. District Judge:

On August 27, 2008, this Court denied Operative's motion for summary judgment and granted the summary judgment of J.P. Phillips, Inc. ("JPP"). Further, the Court ordered JPP to file a statement of damages within 21 days [d/e 30]. JPP's only filing was a September 9, 2008, motion for attorney fees [d/e 31], which this Court denied [d/e 37] on December 12, 2008.

On September 25, 2008, Operative filed a notice of appeal [d/e 33]. This appeal was subsequently dismissed by the appellate court, because the damages issue alluded to in the summary judgment order was never ruled upon due to the intervening notice of appeal.

That deficiency, however, may now be rectified. Because JPP's motion for attorney fees was denied, and because it did not file a statement evincing any other damages, this Court concludes that JPP is only entitled to nominal damages. *See Sunstar, Inc. v. Alberto-Culver Co., Inc.*, 2007 WL 2410069, *1 (N.D. Ill. Aug. 22, 2007) (collecting cases).

Ergo, the Clerk is directed to enter judgment against Operative and

in favor of JPP in the sum of \$1.00.

IT IS SO ORDERED.

ENTERED:

April 1, 2009

FOR THE COURT:

/s Judge Richard Mills
United States District Judge