IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NO. 12-4627

FRANK NELLOM, FRANK NELLOM
& CO.,
Plaintiffs,

v.

DARBY BOROUGH, et al.
Defendants.

ORDER

AND NOW, this 13th day of December 2012, upon review of Plaintiff's Motion for Preliminary Injunction [Doc. No. 10] and Defendants' response thereto [Doc. No. 12], Defendants' Motion to Dismiss [Doc. No. 11], to which there was no response, and Plaintiff's Motion for Summary Judgment [Doc. No. 14], Defendants' response [Doc. No. 16], and Plaintiff's brief in support [Doc. No. 17], and for the reasons set forth in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

- 1. Defendants' Motion to Dismiss is **GRANTED**. This action is dismissed, in its entirety, *with prejudice*, for failure to state a claim on which relief can be granted.
 - 2. Plaintiff's Motion for Preliminary Injunction is **DENIED**.
- 3. Because the Complaint is dismissed with prejudice for failure to state a claim, Plaintiff's Motion for Summary Judgment is **DISMISSED AS MOOT.**

The Clerk of Court is **DIRECTED** to mark this case **CLOSED**. It is so **ORDERED**.

BY THE COURT:	
/s/ Cynthia M. Rufe	
CYNTHIA M. RUFE, J.	