

[J-157-98]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

BANKS ENGINEERING CO., INC.	:	5 W.D. Appeal Dkt. 1998
	:	
v.	:	Appeal from the Order of the Superior
	:	Court dated July 16, 1997 at No. 1959
	:	PGH 1996, affirming the judgment of the
	:	Court of Common Pleas of Westmoreland
MICHAEL POLONS AND DENISE	:	County dated October 3, 1996 at Civil
POLONS, HIS WIFE	:	Division No. 4936 of 1994
	:	
	:	
APPEAL OF: MICHAEL POLONS	:	
	:	ARGUED: September 15, 1998

CONCURRING AND DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: JUNE 23, 2000

I agree with the majority that Snellenberg should be overturned, and, in its place, I would adopt the presumption against liability on the part of sales agents for the return of past advances. Since, in this case, I find no clear contractual expression to the contrary, nor sufficient evidence of contrary mutual intent, I would permit such presumption to carry.

Mr. Chief Justice Flaherty joins this concurring opinion.