

Kline, P.J., dissenting in part:

I respectfully dissent regarding the Union's request for attorney fees. An award of attorney fees pursuant to R.C. 2505.35 does not require a determination that the appeal is frivolous, but only that it is without just cause. *Society Bank, N.A. v. Cazeault* (1993), 83 Ohio App.3d 84, 88; *Fairview Gen. Hosp. v. Fletcher* (1990), 69 Ohio App.3d 827, 836; compare App.R. 23. Upon request of the appellee, particularly when we are unable to determine that the appeal is frivolous but the appellant failed to demonstrate just cause or reasonable grounds for appeal, the appellee is entitled to such an award. *Society Bank* at 88; *Fairview Gen. Hosp.* at 836.

I agree that Portsmouth raised a unique argument regarding the interpretation of the collective bargaining agreement, and the uniqueness prevents this appeal from being frivolous. However, the law is clear regarding the limited nature of this court's standard of review upon an approval of a final and binding arbitration. Portsmouth failed to take this court's standard of review into account when it argued for a different interpretation of the collective bargaining agreement. Given our limited standard of review, Portsmouth failed to demonstrate

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reasonable grounds for reversal of the trial court's decision. Therefore, I believe that the Union is entitled to attorney fees pursuant to R.C. 2505.35.

Please attach to the Per Curiam Opinion in case # SC99CA2668, which was released on 10/25/00.