

FOUNDATION LIFE INSURANCE COMPANY of
Arkansas v. Chris KELLEY, Administrator of the Estate of
Everett Elwood Kelley, Deceased

CA 88-47

757 S.W.2d 775

Court of Appeals of Arkansas
En Banc

Opinion delivered August 24, 1988
[Rehearing denied June 8, 1988.]

COSTS — PREMIUM ON A SUPERSEDEAS BOND IS NOT AUTHORIZED TO BE TAXED AS COSTS. — Money paid to a surety company for becoming surety on an appeal or stay bond is not taxable as costs in the absence of some statutory provision or rule of court specifically authorizing it; appellant cited no authority, and the appellate court is aware of no authority, which authorizes the premium on a supersedeas bond to be taxed as costs in Arkansas.

Motion for Additional Costs; denied.

Rex Terry, for appellant.

No response.

PER CURIAM. The appellant has filed a Motion for Additional Costs seeking to recover for the premium paid by it on the supersedeas bond posted in this case pending the decision on appeal.

[1] While the appellant prevailed in this court and is entitled to its costs on appeal, we have been cited no authority, and we know of none, which authorizes the premium on a supersedeas bond to be taxed as costs.

In 20 C.J.S. *Costs* § 367 (1940), it is stated:

In general, money paid as premiums for appeal or stay bonds is taxable as costs only when and in the amount provided by statute or rule of court.

Although there is some authority to the contrary, the general rule is that money paid to a surety company for becoming surety on an appeal or stay bond is not taxable as costs, in the absence of some statutory provision or rule of court specifically authorizing it, particularly where the

bond was not ordered by the court.

See also 5 Am. Jur. 2d Appeal and Error § 1019.4 (Supp. 1988).

Motion denied.
