

**[J-11A-2016 and J-11B-2016] [MO: Dougherty, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

A. SCOTT ENTERPRISES, INC.,	:	No. 55 MAP 2015
	:	
Appellee	:	Appeal from the Order of the
	:	Commonwealth Court at Nos. 2163 &
	:	2289 CD 2013 dated October 21, 2014,
v.	:	reconsideration denied December 5,
	:	2014, affirming in part and reversing in
	:	part the Order of the Lehigh County
CITY OF ALLENTOWN,	:	Court of Common Pleas, Civil Division,
	:	at No. 2011-C-2818 dated November
Appellant	:	22, 2013, and remanding.
	:	
	:	ARGUED: November 18, 2015
	:	RESUBMITTED: January 20, 2016
A. SCOTT ENTERPRISES, INC.,	:	No. 56 MAP 2015
	:	
Appellee	:	Appeal from the Order of the
	:	Commonwealth Court at No. 379 CD
	:	2014 dated October 21, 2014,
v.	:	reconsideration denied December 5,
	:	2014, affirming in part and reversing in
	:	part the Order of the Lehigh County
CITY OF ALLENTOWN,	:	Court of Common Pleas, Civil Division,
	:	at No. 2011-C-2818 opinion filed
Appellant	:	February 28, 2014, and remanding.
	:	
	:	ARGUED: November 18, 2015
	:	RESUBMITTED: January 20, 2016

CONCURRING OPINION

JUSTICE WECHT

DECIDED: July 19, 2016

I join the learned Majority’s opinion in full, writing only to emphasize that we granted *allocatur* on one issue: whether a jury finding of bad faith requires the trial court

to impose a statutory penalty and award attorney fees under 62 Pa. C.S. § 3935. We denied *allocatur* as to all other issues, including the issue raised by the dissent. Consequently, whether the bad faith question should be submitted to the jury or, in the alternative, decided by the judge, is not before the Court. The parties have not fully briefed the issue, nor has it been preserved for our review. Accordingly, I do not read the majority to endorse or disapprove of the submission of the bad faith question to the jury in this specific instance or in future cases.