

101414

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA**

**SUMMIT POINT RACEWAY ASSOCIATES, INC.,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 09-C-275  
(Judge David H. Sanders)**

**WEST VIRGINIA EMPLOYERS' MUTUAL  
INSURANCE COMPANY d/b/a BRICKSTREET  
MUTUAL INSURANCE COMPANY,**

**Defendant.**

**RECEIVED**

**JUN 29 2010**

**JEFFERSON COUNTY  
CIRCUIT COURT**

**AGREED JUDGMENT ORDER**

On this day came the Plaintiff, Summit Point Raceway Associates, Inc. ("Summit Point"), and Defendant, West Virginia Employers' Mutual Insurance Company d/b/a BrickStreet Mutual Insurance Company ("BrickStreet"), by counsel, and hereby stipulate and agree that, pursuant to the Court's May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment, which contains the Court's legal determination that BrickStreet must pay the amount expended by Summit Point in settling the Brandon Gregory deliberate intent lawsuit, together with the costs incurred by Summit Point in its defense of the Brandon Gregory deliberate intent lawsuit, together with the interest thereon from the date the Brandon Gregory deliberate intent lawsuit was settled, and the attorneys' fees that Summit Point incurred in bringing the instant litigation pursuant to its contract for fees with its attorneys, the amount of damages to be awarded to Summit Point as a result of the Court's May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment is \$1,201,080.30 with interest at the legal rate to accrue on said sum from May 15, 2010, until paid in full.

This Agreed Order notes and preserves the objections and exceptions of BrickStreet to the Court's May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment, including but not limited to all objections and exceptions to the Court's legal determination that

BrickStreet owed insurance coverage and a defense to Summit Point and that damages may be awarded in the fashion determined by the Court in its May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment.

It is, therefore, ORDERED, ADJUDGED, and DECREED that, pursuant to the Court's May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment, which contains the Court's legal determination that BrickStreet must pay the amount expended by Summit Point in settling the Brandon Gregory deliberate intent lawsuit, together with the costs incurred by Summit Point in its defense of the Brandon Gregory deliberate intent lawsuit, together with the interest thereon from the date the Brandon Gregory deliberate intent lawsuit was settled, and the attorneys' fees that Summit Point incurred in bringing the instant litigation pursuant to its contract for fees with its attorneys, the amount of damages to be awarded to Summit Point as a result of the Court's May 4, 2010, Order Granting Plaintiff's Motion for Partial Summary Judgment is \$1,201,080.30 with interest at the legal rate to accrue on said sum from May 15, 2010, until paid in full. The Court notes that a bad faith claim remains pending in this matter and accordingly the Court will enter a new scheduling order with new deadlines and a new trial date to be determined.

BrickStreet's objections and exceptions to this Order are hereby noted and preserved.

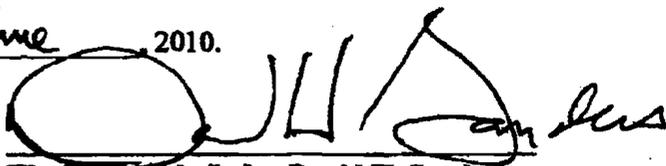
The Clerk is directed to send a certified copy of this Agreed Order to all counsel of record.

ENTERED this 24 day of June 2010.

3 cc's

W. McCune  
P. Chalkover  
A. Henderson

6-30-10

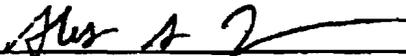
  
The Honorable Judge David H. Sanders

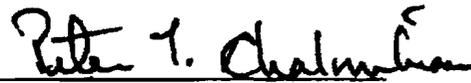
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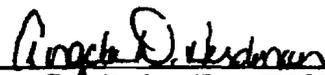
LAURA E. RATTENNI  
CLERK, CIRCUIT COURT  
JEFFERSON COUNTY, W.VA.

BY B. Chalk  
DEPUTY CLERK

**SUBMITTED BY:**

  
Wm. Richard McCune, Jr. (WV Bar # 2429)  
Alex A. Tsiatsos (WV Bar # 10543)  
Wm. Richard McCune, Jr. PLLC  
115 West King Street  
Martinsburg, WV 25401  
**Counsel for Plaintiff**

  
Peter L. Chakmakian (WV Bar # 687)  
Peter L. Chakmakian, L.C.  
108 North George Street  
P.O. Box 547  
Charles Town, WV 25414  
**Counsel for Plaintiff**

  
Don C. A. Parker, Esq. (WV Bar # 7766)  
Angela D. Herdman, Esq. (WV Bar # 8585)  
SPILMAN THOMAS & BATTLE, PLLC  
300 Kanawha Boulevard, East  
P.O. Bbx 273  
Charleston, WV 25321-0273  
(304) 340-3800  
**Counsel for West Virginia Employers' Mutual  
Insurance Company d/b/a BrickStreet Mutual  
Insurance Company**