

11-1203

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SHERYL HOLSINGER, SANDRA R. CARPENTER,  
and MARY J. YEATER,  
*Plaintiffs,*

FILED  
JUL 20 2011  
CATHY S. [unclear]  
KANAWHA COUNTY CIRCUIT COURT

v.

Civil Action No. 98-C-1497  
(Judge Kaufman)

MOUNTAIN STATE COLLEGE, a corporation,  
*Defendant.*

AMENDED JUDGMENT ORDER AND STAY OF EXECUTION PENDING APPEAL

On November 30, 2010, the parties were heard on the motions filed November 8, 2010 on behalf of defendant Mountain State College. Having considered the College's motions, the plaintiffs' response thereto filed November 29, 2010, and the arguments of counsel at the hearing, the Court has determined that the prejudgment interest on tuition awarded in Ordering Paragraph 2 of the Judgment Order is already included in the \$30,000 in restitution awarded as part of the principal judgment, which amounts were based on plaintiffs' student loans the proceeds of which were used to pay their tuition. In all other respects, the College's motions are hereby DENIED. Plaintiffs also indicated that the restitutional component of the judgment was to be paid directly to the holders of plaintiffs' student loans to the extent those loans remain outstanding.

Accordingly, the Judgment Order entered October 25, 2010 is hereby AMENDED as follows:

1. Judgment is entered against the Defendant Mountain State College as follows: in favor of Plaintiff Sheryl Holsinger in the amount of \$50,000, in favor of Plaintiff Sandra Carpenter in the amount of \$50,000, and in favor of Plaintiff Mary Yeater Murphy in the amount of \$50,000, each of said judgments is comprised of \$30,000 of restitution to holders of the student loans.

2. The restitutional components of the aforesaid judgment in the amount of \$30,000 shall be payable jointly to plaintiff Holsinger and United Student Aid Funds – Georgia; to plaintiff Carpenter and the United States Department of Education; and to plaintiff Murphy and the United States Department of Education.

3. Post judgment interest shall run on the aforesaid judgment from May 24, 2010, the date of the verdict, until paid.

4. The Court preserves the objections and exceptions of the parties to any of the findings, conclusions, orders, and judgments.

The Court further determines that the issuance of execution upon the aforesaid judgment should be stayed pursuant to W. Va. R.C.P. 62(i) upon the College's filing of a bond or other security in the amount of \$175,000. The judgment in favor of plaintiffs, the award of attorney fees, and the taxation of costs are hereby STAYED for the duration of the statutory appeal period, and any extensions allowable under West Virginia law, and for any additional period after an appeal has been allowed pending final disposition of the appeal.

The clerk is directed to send a certified copy of this Order to:

Daniel F. Hedges, Esq. Bren J. Pomponio, Esq. Mountain State Justice, Inc. 1031 Quarrier St., Suite 200 Charleston, WV 25301	John Philip Melick, Esq. Jackson Kelly PLLC Post Office Box 553 Charleston, WV 25322-0553	Arden J. Cogar, Jr., Esq. MacCorkle, Lavender, & Sweeney PLLC P. O. Box 3283 Charleston, WV 25332-3283
--	--	--

*Case dismissed by Kaufman, Judge*  
It is so ORDERED this 20<sup>th</sup> day of July, 2011.

*Tod J. Kaufman*  
\_\_\_\_\_  
Tod J. Kaufman, Chief Judge  
13<sup>th</sup> Judicial Circuit

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, CATHY S. GATSON, CLERK OF THE CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 20<sup>th</sup>  
DAY OF July, 2011.  
\_\_\_\_\_  
CATHY S. GATSON, CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Submitted by:

  
\_\_\_\_\_  
John Philip Melick (WV #2522)  
JACKSON KELLY PLLC  
P. O. Box 553  
Charleston, WV 25322-0553  
(304) 340-1289  
*Defendant Mountain State College*