

14-0278

IN THE CIRCUIT COURT OF TAYLOR COUNTY, WEST VIRGINIA

**G. THOMAS BARTLETT, III**  
an individual,

Plaintiff,

vs.

CIVIL ACTION NO: 12-C-27  
(Judge Alan D. Moats)

**MARY LOUISE LIPSCOMB**  
an individual,

Defendant.

ENTERED OF RECORD

MAR 06 2014

ORDER

Civil ORDER BOOK  
NO. 42 PAGE 105/7

On the 10<sup>th</sup> day of February, 2014, came the Plaintiff, in person, and by Hunter B. Mullens and Thomas B. Hoxie, his attorneys, and the Defendant, by Charles G. Johnson, her attorney, pursuant to an Order entered herein on November 22, 2013, scheduling this matter for hearing on this date to address **Plaintiff's motion to amend the Complaint** and the issue of the settlement of this matter in mediation.

Thereupon, the Court Read into the record a letter dated December 5, 2013 from James M. Wilson, the mediator.

Thereupon, Counsel for the Defendant and James R. Christie, former counsel for the Plaintiff, represented to the Court that a settlement had in fact been reached at mediation, and that counsel for the Plaintiff prepared documents reflecting that settlement.

**Thereupon, Counsel for the Plaintiff admitted a letter, dated July 26, 2013, into the record, which said letter was written by James R. Christie to the Plaintiff.**

Thereupon this matter came upon to be heard on the Order entered herein, the letter of James M. Wilson and the representation of counsel for the Defendant and the former counsel for the Plaintiff.

On the basis of the representations of the mediator and counsel, and for the reasons set forth on the record, the Court is of opinion that the parties settled the matters in controversy at mediation on June 6, 2013, and that the Settlement Agreement and Deeds accurately represented that settlement.

It is accordingly ORDERED that the Plaintiff execute and deliver to his attorney the Settlement Agreement prepared by his former counsel within ten (10) days from the date of entry hereof and failing to do so counsel for Defendant is hereby **granted leave to move this Court to appoint** a Special Commissioner to execute that Agreement on behalf of the Plaintiff.

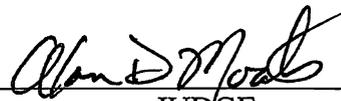
It is further ORDERED that upon the execution of the Agreement by the parties, the Defendant execute the deeds completing the Settlement and deliver the same to Counsel for the Plaintiff.

To the rulings of the Court, the Plaintiff object and excepts, **in that Plaintiff contends that testimony was not taken to establish specific findings of fact to comply with *Riner v.***

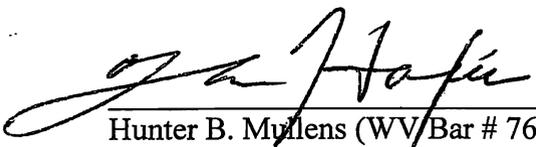
***Newbraugh, 211 W. Va. 137 (W.Va. 2002), the proposed settlement agreement violates the Statute of Frauds, W. Va. Code § 36-1-3, and exceptions as otherwise set forth in Plaintiff's Reply Memorandum to Defendant's Response to Plaintiff's Motion to File First Amended Complaint for Declaratory Relief and Breach of Contract.***

It is further ORDERED that the Clerk of this Court forward copies of this Order to Hunter B. Mullens, Counsel for the Plaintiff, at his last known address, Post Office Box 95, Philippi, West Virginia, 26416, and to Charles G. Johnson, Counsel for the Defendant, at his last known address, Post Office Box 150, Clarksburg, West Virginia, 26302-0150.

ENTER: 3/6/14

  
JUDGE

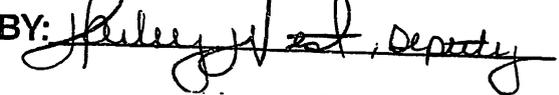
Submitted by (in response to Defendant's proposed Order):



Hunter B. Mullens (WV Bar # 7620)  
Thomas B. Hoxie (WV Bar # 12287)  
Mullens & Mullens, PLLC  
P.O. Box 95  
Philippi, WV 26416

A TRUE COPY FROM THE RECORD

ATTEST: VONDA M. RENEMAN  
CLERK OF THE CIRCUIT COURT OF TAYLOR  
COUNTY, WEST VIRGINIA

BY: , Deputy