

15-1149

RECEIVED OCT 09 2015 NOTED DOCKET

DATE: OCT - 6 2015

DAVID "BUGS" STOVER  
CLERK CIRCUIT COURT

IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA COUNTY

DANNY S. WELLMAN, Administrator of  
the Estate of Jarred S. Wellman, Deceased.  
Plaintiff,

v.

Civil Action No. 15-C-27  
Honorable Warren R. McGraw

FORD MOTOR COMPANY,  
RAMEY AUTOMOTIVE GROUP INC.,  
d//b/a FORD RAMEY LINCOLN,  
Defendants.

ORDER DENYING MOTION TO DISMISS

On or around September 17, 2015, the Court received Ford Motor Company's Motion to Dismiss for Lack of Personal Jurisdiction. The basis of said motion was a claim that under the West Virginia Rules of Civil Procedure, specifically under Rule 12(b)(2), the Circuit Court of Wyoming County, West Virginia lacks jurisdiction over the Defendant, Ford Motor Company. Based upon the Court's review of Ford Motor Company's Memorandum in Support of Motion to Dismiss for Lack of Personal Jurisdiction, Ford Motor Company's Motion to Dismiss for Lack of Personal Jurisdiction is **DENIED**.

The Circuit Clerk is directed to forward an attested copy of this Order to any counsel or unrepresented party of record.

**IT IS SO ORDERED.**

Entered on this, the 5 day of October, 2015.



WARREN R. MCGRAW, JUDGE

A TRUE COPY, ATTEST.  
DAVID "BUGS" STOVER, CLERK

This the OCT - 6 day of 2015, 20

By: R. Coleman  
Deputy.

NOTED DOCKET  
DATE: OCT 22 2015  
DAVID "BUGS" STOVER  
CLERK CIRCUIT COURT  
WYOMING COUNTY

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

**DANNY S. WELLMAN, Administrator of  
the Estate of Jarred S. Wellman, Deceased.**

**Plaintiff,**

**v.**

**Civil Action No. 15-C-27**

**Honorable Warren R. McGraw**

**FORD MOTOR COMPANY,  
RAMEY AUTOMOTIVE GROUP INC.,  
d//b/a FORD RAMEY LINCOLN,**

**Defendants.**

**ORDER SETTING FORTH FINDINGS OF FACT AND CONCLUSION OF  
LAW THAT SUPPORT THE COURT'S ORDER DENYING MOTION TO  
DISMISS**

On or around September 17, 2015, this Court received Ford Motor Company's Motion to Dismiss for Lack of Personal Jurisdiction. The basis of said motion was a claim that under the West Virginia Rules of Civil Procedure, specifically under Rule 12(b)(2), the Circuit Court of Wyoming County, West Virginia lacks jurisdiction over the Defendant, Ford Motor Company. On October 5, 2015, this Court entered an Order Denying Motion to Dismiss. The Defendants, Ford Motor Company, have now filed a Motion Requesting the Court to Set Forth Findings of Fact and Conclusions of Law that Support the Court's Order Denying Motion to Dismiss. Therefore, this Court wishes to enter an Order which specifically names findings of facts and conclusions of law in support of its previous Order.

**FINDINGS OF FACT**

1. This case was duly filed in this Court on February 15, 2015.
2. Ford Motor then filed a Notice of Removal to the United States District Court for the Southern District of West Virginia.

3. The United States District Court for the Southern District of West Virginia rejected jurisdiction in this case and returned this case for disposition to the Twenty-Seventh Judicial Circuit Court of West Virginia.
4. Ford Motor Company is a global operation.
5. This case arises out of a tragic automobile accident involving a vehicle manufactured by Ford Motor Company.
6. The Complaint in this matter alleges claims against both Ford Motor Company and Ramey Automotive Group Inc., a West Virginia corporation which owns a local Ford dealership.
7. Ford Motor Company filed a Motion to Dismiss for lack of personal jurisdiction, essentially claiming that this Court lacked jurisdiction over Ford Motor Company because Ford Motor Company does not do business in the state of West Virginia.
8. On October 5, 2015, this Court entered an Order Denying Motion to Dismiss.
9. Ford Motor Company has filed a Motion Requesting the Court to Set Forth Findings of Fact and Conclusions of Law that Support the Court's Order Denying Motion to Dismiss.

#### CONCLUSIONS OF LAW

1. Based upon the judicial history in this particular case, to grant the Defendant's Motion to Dismiss for Lack of Personal Jurisdiction would have effectively deprived the Plaintiff of a forum to have the Plaintiff's case heard and would have denied the Plaintiff the benefits conferred upon citizens of West Virginia by Article 3, Section 17 of the Constitution of West Virginia, "The courts of this state shall be open, and every person, for an injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay."

2. Article 3, Section 10 of the Constitution of West Virginia states “No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers.” Clearly, any interpretation of the Constitution of West Virginia which allows the courts to summarily dismiss a plaintiff’s claim based upon some complex and intricate interpretation of the law violates the intention of the Constitution of West Virginia to guarantee a right to have your case heard and decided by the plaintiff’s peers.
3. To suggest that Ford Motor Company, America’s leading automobile manufacturer for more than a century, does not do business in West Virginia is the ultimate absurdity as defined in Black’s Law Dictionary, revised fourth edition, “[t]hat which is both physically and morally impossible; and that is to be regarded as morally impossible which is contrary to reason, so that it could not be imputed to a man in his right senses.”
4. To hold Ford Motor Company does not do business in West Virginia to a sufficient degree to be “at home” in West Virginia and be required to respond in our courts meets the ultimate definition from Black’s Law Dictionary referenced above.
5. The Ford emblem and logo, which may have existed for well over one-hundred years, is notably proper for the world’s leading manufacturer of automobiles in that it is a globe of the world.
6. Based upon the reasoning above, this Court entered an Order Denying Motion to Dismiss on October 5, 2015, and this Order is only intended to clarify this Court’s reasoning and in no way alters its earlier decisions.
7. The Circuit Clerk is directed to forward an attested copy of this Order to any counsel or unrepresented party of record.

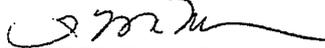
**IT IS SO ORDERED.**

Entered on this, the 21<sup>ST</sup> day of October, 2015.

  
WARREN R. MCGRAW, JUDGE

A TRUE COPY, ATTEST.  
DAVID "BUGS" STOVER, CLERK

This the 22 day of Oct, 2015

By:   
Deputy.

RECEIVED OCT 26 2015 NOTED DOCKET  
DATE: OCT 22 2015  
DAVID "BUGS" STOVER  
CLERK CIRCUIT COURT  
WYOMING COUNTY

IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA

DANNY S. WELLMAN, Administrator of the  
Estate of Jarred S. Wellman, Deceased

Plaintiff,

v.

Civil Action No. 15-C-27  
Judge McGraw

FORD MOTOR COMPANY,  
RAMEY AUTOMOTIVE GROUP, INC.,  
d/b/a RAMEY FORD LINCOLN

Defendants.

ORDER

Defendants, Ford Motor Company ("Ford"), by counsel, moved this Court by *Ford Motor Company's Motion Requesting the Court to Set Forth Findings of Fact and Conclusions of Law that Support the Court's Order Denying Motion to Dismiss and Motion to Stay Proceedings* ("Motion") for the entry of an order setting forth findings of fact and conclusions of law that support and form the basis of this Court's denial of Ford's Motion to Dismiss for Lack of Personal Jurisdiction ("Motion to Dismiss") and staying discovery and proceedings pending the resolution of any review by the Supreme Court of Appeals of West Virginia of this Court's Order denying Motion to Dismiss by way of Ford's forthcoming writ of prohibition. Ford submits that it should be relieved of any obligation to answer the Complaint or engage in any discovery or further proceedings until the threshold legal questions posed by the Motion to Dismiss and writ of prohibition are firmly resolved.

After a thorough review of the Motion, the record, and the applicable legal authorities, this Court GRANTS Ford's Motion. This Court hereby ORDERS that the instant matter be stayed pending the West Virginia Supreme Court of Appeals' resolution of Ford's forthcoming

writ of prohibition. Should this Court retain jurisdiction after resolution of the Ford's forthcoming writ of prohibition, Ford has 30 days from the entry of the denial of Ford's writ of prohibition to file its answer or other responsive pleading.

Entered this 21 day of Oct., 2015

The Circuit Clerk is directed to forward certified copies of this Order to all counsel of record.

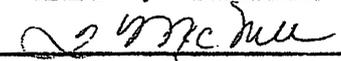
  
Honorable Warren R. McGraw

Order prepared by:

  
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Facsimile: (304) 345-0260

A TRUE COPY, ATTEST,  
DAVID "BUGS" STOVER, CLERK

This the 20 day of Oct, 2015

By:   
Deputy.

-and-

D. Alan Thomas (*pro hac vice pending*)  
Thomas E. Bazemore, III (*pro hac vice pending*)  
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*Counsel for Ford Motor Company*