

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

OMEGA FACILITY SERVICES, SOLUTIONS & SURETY, LLC,
JEFFREY R. BROWN,
SUSAN L. BROWN,

PLAINTIFFS,

v.

CIVIL ACTION NO. 14-C-1745 (Kanawha)
Hon. Thomas C. Evans, III

JACOBS & COMPANY, INC., a West Virginia Corporation
JACOBS FINANCIAL GROUP, INC., a West Virginia Corporation
FS INVESTMENTS, INC., a West Virginia Corporation
FIRST SURETY CORPORATION, INC., a West Virginia Corporation
TRIANGLE SURETY AGENCY, INC., a West Virginia Corporation
JOHN M. JACOBS, a West Virginia Resident
ROBERT J. KENNEY, a West Virginia Resident

DEFENDANTS.

DISMISSAL ORDER

On the 20th day of January, 2016, during the trial in this matter, counsel for the Plaintiffs and the Defendants advised the Court that a settlement agreement had been reached in this matter.

The Court, after hearing the proffer of counsel as to the terms of the agreement, and making the same a part of the record in these proceedings, is of the opinion that an arms-length settlement had been reached by the parties as both the Plaintiffs and the Defendants, and their respective counsel, affirmed the terms of said settlement of this matter.

WHEREFORE, being that the parties have reached a settlement agreement in this matter, the Court ORDERS that the above-styled action be DISMISSED with

PREJUDICE, and forthwith removed from the Court's docket, except that the injunction previously placed upon the collateral account at issue in this matter shall remain in effect until further Order of this Court.

The Clerk of the Business Court is hereby ORDERED to send attest copies of this Order to counsel of record, **Brandon S. Steele, Esq., 3049 Robert C. Byrd Drive, Ste 100, Beckley, WV 25801**, and **Herschel H. Rose, III, 300 Summers St. Ste 1440, Charleston, WV 25301**.

ENTERED this 31st day of MARCH, 2016



Hon. Thomas C. Evans, III
Judge, Business Court Division

Prepared by:

Brandon S. Steele, Esq.
WVSB #12423
3049 Robert C. Byrd Drive, Ste 100
Beckley, WV 25801
681-207-7205
304-255-1520

Approved by:

Herschel H. Rose, III, Esq.
300 Summers St., Ste 1440
Charleston, WV 25301
304-342-5050

4/5/16
✓ ☐ to be sent to
✓ ☐ of record BS
✓ ☐ HR
✓ ☐ (please indicate)
✓ ☐ certified 1st class mail
✓ ☐ fax
✓ ☐ hand delivery
✓ ☐ other (specify)
L. All

[Print](#)[Close](#)**RE: DISMISSAL ORDER**

From: **Herschel H. Rose III** (herschelrose@frontier.com)
Sent: Wed 3/30/16 1:48 PM
To: 'Herschel H. Rose III' (herschelrose@frontier.com); 'Thomas Evans' (evansjudge@hotmail.com); corpsengineer@yahoo.com; claire.watson@courtsww.gov
Cc: brandonsteele@suddenlinkmail.com

Judge Evans:

Good afternoon. I have just spoken with Brandon Steele and we have agreed that the dismissal order that Brandon earlier tendered to you is agreeable if amended in the third paragraph to read:

WHEREFORE, being that the parties have reached a settlement agreement in this matter, the Court ORDERS that the above styled action be DISMISSED with prejudice, and forthwith removed from the docket of the Court, except that the injunction previously placed upon the collateral account at issue in this matter shall remain in effect until further Order of this Court.

We don't anticipate that the extended jurisdiction of the court would last more than several days but anticipate tendering an order approving the transfer of the \$800,000 from the collateral account to the plaintiff's private account and then dissolving the injunction and entering the final, final order.

I hope this is acceptable to the Court.

Herschel Rose

Counsel for Defendants

From: Herschel H. Rose III [mailto:herschelrose@frontier.com]
Sent: Wednesday, March 30, 2016 10:19 AM
To: 'Thomas Evans'; 'corpsengineer@yahoo.com'; 'claire.watson@courtsww.gov'
Cc: 'brandonsteele@suddenlinkmail.com'
Subject: RE: DISMISSAL ORDER

Judge Evans;

Good morning. I received a draft Settlement Agreement and Dismissal Order from counsel for plaintiffs this morning at about 8:30. The proposed Dismissal Order specifically dissolves the injunction relating to dealings with the Collateral Account. Given the history of plaintiffs' handling of the Collateral Account in this matter, I consider it imperative that a proper Settlement Agreement be in place before the injunction is dissolved. Accordingly I request that the Court delay the entry of a Dismissal Order for a few days to allow a review and mutual execution of the proposed Settlement agreement.

Thank you for your consideration of this request.

Herschel Rose

Counsel for Defendants

From: Thomas Evans [mailto:evansjudge@hotmail.com]
Sent: Monday, March 28, 2016 12:08 PM
To: corpsengineer@yahoo.com; herschelrose@frontier.com; claire.watson@courtsww.gov
Subject: DISMISSAL ORDER

Re: CA No. 14-C-1745-KAN , Omega Facility Services, Solutions and Surety, LLC, Jeffrey R. Brown, and Susan L. Brown vs) Jacobs & Company, Inc., a West Virginia Corporation; Jacobs Financial Group, Inc., a West Virginia Corporation; FS Investments, Inc., a West Virginia Virginia Corporation; Triangle Surety Agency, Inc., a West Virginia Corporation; John M. Jacobs, a West Virginia resident; and Robert J. Kenney, a West Virginia resident

Counsel, this case settled during Jury trial on or about January 20, 2016. No dismissal order has been received. Please submit the dismissal order no later than 4 p.m. this coming Wednesday, March 30, 2016, or the court will at that time enter its own dismissal order.

Judge Thomas Evans