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IN THE CIRCUIT COURT OF TAYLOR COUNTY, WEST VIRGINIA

BUILDERS' SERVICE AND SUPPLY COMPANY,

JUL 18 2007

Plaintiff,

vs.

CIVIL ACTION NO. 03-C-63

Judge: Alan D. Moats

CHRISTAL M. DEMPSEY, A.K.A.
CHRISTAL M. SMITH, AND
CLARK SINCLAIR, SHERIFF
OF TAYLOR COUNTY, WEST VIRGINIA,

Defendants / Third Party Plaintiff

vs.

ENTERED OF RECORD

EDWARD CHARLTON, DBA
CHARLTON CONSTRUCTION,

JUL 11 2007

Civil ORDER BOOK

Third Party Defendants.

NO. 39 PAGE 70/71

ORDER DENYING MOTION

On June 13, 2007, the Defendant / Third Party Plaintiff, Christal M. Dempsey Smith, by counsel, William C. Brewer, filed a *Motion to Reconsider Order Denying Motion to Reinstate*. Previously, on March 21, 2007, this Court entered an Order denying Christal M. Dempsey Smith's *Motion to Reinstate* filed on February 16, 2007.

The civil action to which the instant proceeding relates was filed in this court on August 5, 2003. Defendant / Third Party Plaintiff, Christal M. Dempsey Smith, filed an answer and counter-claim to Plaintiff's complaint on September 16, 2003. On November 4, 2004, a Hearing was held concerning a motion filed by Charles Anderson, Attorney for Christal M. Dempsey Smith, for leave to withdraw. The motion was denied as reflected by an Order entered November 15, 2004. The Hearing of November 4, 2004, with accompanying Order entered November 15, 2004, was the last activity in the case.

After that date there was no proceeding or order in this action for more than one year. A *Notice of Intended Dismissal of Action Under Rule 41 (b)* was filed on January 17, 2006. No party to this action filed any form of objection to the Notice of Intended Dismissal within the time period prescribed. An Dismissal Order was entered one month later on February 17, 2006.

On February 16, 2007, a *Motion to Reinstate* was filed by counsel for Defendant / Third Party Plaintiff, Christal M. Dempsey Smith. By Order entered March 21, 2007, this Court denied Ms. Dempsey Smith's *Motion to Reinstate*.

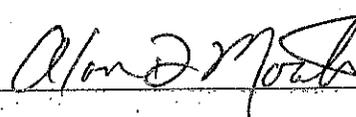
The Court has reviewed Defendant / Third Party Plaintiff, Christal M. Dempsey Smith's *Motion to Reconsider Order Denying Motion to Reinstate*, and finds all matters have been taken into consideration by previous Orders entered in the case, and there is no need for a Hearing on this matter.

Therefore, the Court after review and consideration, **ORDERS** Defendant / Third Party Plaintiff, Christal M. Dempsey Smith's *Motion to Reconsider Order Denying Motion to Reinstate* should be, and hereby is **DENIED**.

The Clerk is directed to send certified copies of this order to all counsel of record.

ENTER:

7-11-07



JUDGE

A TRUE COPY FROM THE RECORD

ATTEST: VONDA M. RENEMAN

CLERK OF THE CIRCUIT COURT OF TAYLOR
COUNTY, WEST VIRGINIA

BY: Amy R. McLaughal, Deputy