IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VICTOR S. MARTINI,	}
Plaintiff,	
v.	Civil Action No. 04-354 Erie
PRESQUE ISLE CAPITAL MANAGEMENT, INC., and JAMES H. THOMAS,	
Defendants.	}

Order

Presently before the Court is the parties' Consent Motion for Judgment in Favor of Defendant James H. Thomas (Doc. 35). The parties request that the Court enter Judgment in favor of Defendant James H. Thompson. In addition, the parties acknowledge that they agree that James H. Thomas waives any right to seek costs and/or attorneys' fees pursuant to Fed.R.Civ.P. 54(d) and Plaintiff Victor S. Martini waives any right to appeal the Judgment in favor of Defendant James H. Thompson. Finally, the parties also seek an Order reflecting their stipulated agreement that the action should be dismissed with prejudice as against Defendant Presque Isle Capital Management, Inc. and James H. Thomas pursuant to Fed.R.Civ.P. 41, and that all parties will bear their own costs.

There being no reason not to grant the parties consent motion, the following Order is hereby entered.

AND NOW, to-wit, this _____ day of June, 2006, it is hereby ORDERED, ADJUDGED, and DECREED that Consent Motion for Judgment in Favor of Defendant James H. Thomas (Doc. 35) be and hereby is GRANTED. The Court will enter one Order entering Judgment as required by the Federal Rules of Civil Procedure and a separate Order dismissing this action.

Senior United States District Judge

counsel of record cc: