STATE OF RHODE ISLAND

WASHINGTON, SC. **SUPERIOR COURT**

(FILED: November 27, 2024)

SUZANNE MERRIAM ***Plaintiff*,**	:	
v.	:	**C.A. No. WC-2020-0016**
JOHN C. MERRIAM AND CHARLOTTE MERRIAM COLE ***Defendants*.**	:	

DECISION

TAFT-CARTER, J. Before this Court for decision is John C. Merriam (John) and Charlotte Merriam Cole's (Charlotte) (collectively, Defendants) Motion to Enforce Settlement Agreement between Defendants and Suzanne Merriam (Plaintiff).[1] Jurisdiction is pursuant to G.L. 1956 § 8-2-14.

I

Facts and Travel

The parties to this action are co-owners of a piece of real property located at 73 Fire Lane 3 #B, South Kingstown, Rhode Island 02879 (the Property). (Defs.' Mot. to Enforce Settlement Agreement (Defs.' Mot. to Enforce) 1.) Defendants Charlotte and John are siblings, and Plaintiff is the widow of Defendants' brother, George Merriam (George). *Id*.

In June 2007, Martha Merriam deeded the Property to her children, John, Charlotte, and George Merriam as tenants in common. *Id*. When George died in 2013, Plaintiff inherited her husband's interest in the Property and replaced him as the third tenant in common. *Id*. Since

[1] This case involves an inter-family dispute; because several litigants share the same last name, first names will be used when necessary to avoid confusion.

John, Charlotte, and Plaintiff became tenants in common, management of the Property, allocation of expenses, and communication about the arrangement has become contentious. *See* Pl.'s Obj. to Defs.' Mot. to Enforce Settlement Agreement, Ex. A (Pl.'s Obj., Ex. A), ¶¶ 8, 9, 10.

On August 17, 2020, Plaintiff filed her first Petition for Order of Sale and for the Appointment of a Commissioner. (Pl.'s First Pet. for Order of Sale.) Defendants objected on September 18, 2020. (Defs.' Obj. to Pl.'s First Pet. for Order of Sale.) Subsequently, the parties engaged in negotiations to resolve the issue without court intervention. *See* Defs.' Mot. to Enforce at 2. The present action arises out of a purported settlement agreement reached by counsel for the parties during those negotiations. *Id.* at 4.

On November 23, 2020, Defendants offered Plaintiff $315,000 to buy out her one third interest in the Property. (Defs.' Mot. to Enforce, Ex. A, at 8.) Defendants allege that this figure was in recognition of the value of the Property, less $75,000 in property expenses undertaken by Defendants. *Id.* After the initial offer, negotiations commenced between the parties.[2] On September 28, 2021, Plaintiff's counsel proposed a final counteroffer:

> "My client will accept $340,000 as a buyout of her interest in the property, on the condition that the next quarterly tax bill, which is due, based on my information, on November 1st, be paid by your clients. Our clients were using a rotation and I believe and [*sic*] Suzanne was responsible for the next payment. So, my client will accept payment of $340,000 and that your clients are responsible for all future tax bills, including the November 1st quarterly bill."
> *Id.* at 2.

[2] Plaintiff rejected the initial offer and proposed a counteroffer of $366,000 on May 11, 2021. Defs.' Mot. to Enforce, Ex. A, at 6. Defendants rejected this offer and proposed a counteroffer of $330,000 on July 8, 2021. *Id.* at 4. Plaintiff rejected Defendants' offer and proposed a counteroffer of $350,000 on July 26, 2021. *Id.* at 3. Defendants rejected Plaintiff's offer and proposed a counteroffer of $340,000 on August 25, 2021. *Id.* at 2. Plaintiff rejected the $340,000 offer. *Id.*

On October 3, 2021, Defense counsel responded: "We have an agreement. My clients are in the process of meeting with banks regarding a mortgage/refinance option to free up the cash. I'll be in touch on timeline. In the meantime, do you want us to prepare a settlement agreement?" *Id*. at 1.[3]

Thereafter, John obtained a mortgage on his personal residence to finance the sale. (Defs.' Mot. to Enforce, Ex. D, ¶ 3.) In addition, John and Charlotte aver that they have paid all taxes and expenses on the property without seeking contribution from Plaintiff since accepting Plaintiff's offer to settle. *Id*. ¶¶ 3, 4. Plaintiff disputes Defendants' assertion that they alone have made all tax payments since October 2021. (Pl.'s Response Mem. to Defs.' Reply Br. in Supp. Mot. to Enforce, Ex. A (Pl.'s Response, Ex. A), ¶ 15.)

In the months after the October 2021 negotiations, counsel for the parties communicated about financing and a timeline to close. (Defs.' Mot. to Enforce, Ex. A, at 16.) Plaintiff's counsel followed up regarding a timeline to close on November 29, 2021, *id*. at 16, and Defendants' counsel expressed optimism that the deal could close within the next month. *Id.* at 17. On January 26, 2022, Defendants informed Plaintiff that they had received the necessary cash and were prepared to draft the settlement agreement and release those funds. *Id*. at 18. On February 1, 2022, Defendants' counsel sent Plaintiff's counsel a document titled "Settlement Agreement and Mutual Release," *id.* at 23, to which Plaintiff's counsel responded on February 15, 2022, "my client mailed me original signed copies on Friday. So I should be receiving them any day and I will forward to you."[4] *Id*. On May 12, 2022, Plaintiff's counsel wrote, "call me when you have a minute." *Id*. at 20. Thereafter, communications between the parties slowed, and on

[3] A review of Defs.' Mot. to Enforce, Ex. A does not indicate that the parties themselves (John, Charlotte, and/or Suzanne Merriam) were copied on the e-mail correspondence.

[4] To date, neither party has presented a settlement agreement or mutual release signed by Plaintiff.

September 18, 2023, Plaintiff's counsel sent the following statement: "My client was never in agreement with the previous settlement proposal as I previously communicated this to you. Our plan is to file the Petition for Partition with the Court and expect to do so this week." *Id.* at 25.

Subsequently, Plaintiff filed a second Petition for Order of Sale and Appointment of a Commissioner on November 2, 2023, to which Defendants objected on November 24, 2023. *See* Pl.'s Pet. for Order of Sale and for Appointment of Commissioner (Pl.'s Nov. 2023 Pet.); Defs.' Obj. to Pl.'s Pet. for Order of Sale and for Appointment of Commissioner. Defendants then filed this Motion to Enforce Settlement Agreement on July 2, 2024, to which Plaintiff objected on September 23, 2024. *See* Defs.' Mot. to Enforce; Pl.'s Obj. to Defs.' Mot. to Enforce (Pl.'s Obj.). Defendants filed a Reply Brief in Support of their Motion to Enforce Settlement Agreement on October 31, 2024, and Plaintiff filed a Response Memorandum to the Reply Brief on November 6, 2024. *See* Defs.' Reply Brief in Supp. of their Mot. to Enforce (Defs.' Reply); Pl.'s Resp. Mem. to Defs.' Reply Br. (Pl.'s Response). This Court heard oral arguments on the matter on November 14, 2024. It now renders its decision.

II

Standard of Review

"We treat settlement agreements as we would any other contract, binding the parties to the terms of their bargain and permitting signatories of settlement agreements to seek court assistance in enforcing those agreements when another party has reneged." *Furtado v. Goncalves*, 63 A.3d 533, 538 (R.I. 2013) (citing *Homar, Inc. v. North Farm Associates*, 445 A.2d 288, 290 (R.I. 1982); *see also Phelan v. Kuperman-Beade*, No. PC-2020-04797, 2024 WL 4437405, at *2 (R.I. Super. Oct. 1, 2024) (quoting *Rossi v. AC & S, Inc.*, No. 96-1295, 96-1103,

2001 WL 1097791, at *1 (R.I. Super. Sept. 12, 2001) ("'A party to a settlement agreement may seek to enforce the agreement's terms when the other party breaches.'").

"As a general rule, 'a trial court may not summarily enforce a purported settlement agreement if there is a genuinely disputed question of material fact regarding the existence or terms of that agreement.'" *Rossi*, 2001 WL 1097791, at *1 (quoting *Malave v. Carney Hospital, et al.*, 170 F.3d 217, 220 (1st Cir. 1999)). "When the evidence before the court presents a 'genuinely disputed question of material fact regarding the existence or terms of that agreement[,]' the court may resolve those questions through an evidentiary hearing." *Phelan*, 2024 WL 4437405, at *2 (quoting *Malave*, 170 F.3d at 220). In any event, "'the court is not permitted to alter the terms of the agreement, but rather it must enforce the settlement as agreed to by the parties.'" *Id.* (quoting *Graley v. Yellow Freight System, Inc.*, 221 F.3d 1334, at *4 (6th Cir. 2000)).

In addition, when a purported settlement agreement deals with the sale of land, Rhode Island's Statute of Frauds, G.L. 1956 § 9-1-4, governs. Section 9-1-4(1). The statute, "which must be strictly construed and strictly applied," *Brochu v. Santis*, 939 A.2d 449, 453 (R.I. 2008) (internal citations omitted), states:

> "No action shall be brought:
>
> "(1) Whereby to charge any person upon any contract for the sale of lands . . . .
>
> ". . .
>
> "(7) [U]nless the promise or agreement upon which the action shall be brought, or some note or memorandum thereof, shall be in writing, and signed by the party to be charged therewith, or by some other person by him or her thereunto lawfully authorized." Section 9-1-4.

Therefore, to satisfy the statute and enforce an oral contract, "a memorandum must contain evidence that 'a contract has been made by [the parties] or offered by the signatory [of the memorandum] to the other [party].'" *UXB Sand & Gravel, Inc. v. Rosenfeld Concrete Corporation*, 641 A.2d 75, 79 (R.I. 1994) (quoting 2 E. Allan Farnsworth, *Farnsworth on Contracts* § 6.7, at 136 (1990)).

III

Analysis

A

Statute of Frauds

Plaintiff asserts that this action is governed by the statute of frauds, and "[t]he requirements under the Statute of Frauds have been [*sic*] not been met as there is no agreement in writing signed by the Plaintiff to sell her interest in the real property." (Pl.'s Obj. 1.) Defendants disagree, arguing that they have "provided this Court with email exchanges to the contrary, evidencing that not only did the Parties agree on all material terms of the settlement, but that the Plaintiff signed the release mailed to Plaintiff's counsel on or about February 15, 2022." (Defs.' Reply 2.) In the alternative, Defendants argue that the agreement is enforceable under the part performance exception to the statute of frauds. *Id*.

The statute of frauds imposes two requirements on the party seeking to enforce the contested agreement: the agreement must be (1) "in writing," and (2) "signed by the party to be charged therewith, or by some other person by him or her thereunto lawfully authorized." Section 9-1-4(7). The question before this Court, therefore, is whether the e-mail correspondence provided by Defendants satisfies both the writing requirement and the signature requirement of the statute of frauds so that the purported settlement should be enforced.

i

Writing Requirement

"It is well settled that '[t]he statute of frauds does not require contracts for the sale of land to be in writing[,]' but if such a contract be an oral agreement, *it will be enforced only if evidenced by a 'sufficient memorandum.'*" *Loffredo v. Shapiro*, 274 A.3d 782, 790 (R.I. 2022) (quoting *UXB Sand & Gravel, Inc.*, 641 A.2d at 78) (emphasis added). "Such memoranda must set out who are the seller and the buyer, their respective intention to sell and to purchase, a description of the subject matter of the sale, the purchase price, and terms of payment." *MacKnight v. Pansey*, 122 R.I. 774, 782, 412 A.2d 236, 241 (1980) (citing *Durepo v. May*, 73 R.I. 71, 76, 54 A.2d 15, 18-19 (1947)). "[T]he required note or memorandum 'need not comprise a single writing: essential terms of a sale can be included in the writing itself or by a reference in that writing to another document which supplies the missing information." *Loffredo*, 274 A.3d at 790-91 (internal quotation omitted).

Here, Defendants present twenty-five pages of e-mail correspondence between defense counsel and Plaintiff's counsel as evidence of a writing to satisfy the statute of frauds. *See generally*, Defs.' Mot. to Enforce, Ex. A. A review of the correspondence indicates that counsel for the parties established and agreed to the essential terms of the contract through the following communications: the November 23, 2020 e-mail evinces the Defendants' intention to buy, *id.* at 8 ("they are interested in buying out the Plaintiff's interest in the Property"); the September 28, 2021 e-mail demonstrates Plaintiff's intention to sell, *id*. at 2 ("[m]y client will accept $340,000 as a buyout of her interest in the property"); the November 5, 2020 e-mail describes the property as the "73 Fire Lane, South Kingstown property," *id*. at 11; the September 28, 2021 e-mail lists the final purchase price—$340,000 cash and Defendants' promise to pay the forthcoming tax

bills, *id.* at 1-2; the October 3, 2021 e-mail contains Defendants' acceptance of the offer, *id*. at 1; and the October 3, 2021 e-mail describes the terms of the sale—Defendants are to "free up" the cash through a bank loan, *id*. at 1.

From the e-mail correspondence, the Court finds that the first element of the statute of frauds is satisfied; however, the inquiry does not end there.

ii

Signature Requirement

In addition to the writing requirement, the party seeking enforcement must also demonstrate that the writing is "signed by the party to be charged therewith, or by some other person by him or her thereunto lawfully authorized." Section 9-1-4(7). Here, there is no question that a writing containing the essential terms of the agreement—signed by Plaintiff—is not before the Court. Instead, Defendants rely on the e-mail exchanges from Plaintiff's counsel, which include an e-mail "signature" to satisfy this requirement. (Defs.' Reply 9.)

"'[T]he relationship [between an attorney and client] is essentially one of principal and agent.'" *McBurney v. Roszkowski*, 875 A.2d 428, 437 (R.I. 2005) (quoting *State v. Cline*, 122 R.I. 297, 309, 405 A.2d 1192, 1199 (1979)). "For that reason, the determination of whether an attorney possesses the authority to bind his client requires an application of the principles governing agency law." *Id*. "For an agent's signature to satisfy the statute of frauds, the agent must have actual or ostensible authority to sign the writing and must act pursuant thereto in order to bind his or her principal." *UXB Sand & Gravel, Inc*., 641 A.2d at 79 n.1 (citing 72 Am.Jur.2d *Statute of Frauds* § 379 (1974)).

In Rhode Island, it is well established that "'the power to settle lawsuits rests not with the attorneys but with the clients who are parties to the suit[.]'" *McBurney*, 875 A.2d at 437 (quoting

Parrillo v. Chalk, 681 A.2d 916, 919 (R.I. 1996)). Accordingly, "an attorney has no authority to settle a case on behalf of a client unless the client has authorized the attorney to do so." *Parrillo*, 681 A.2d at 919. Importantly, "the mere engagement of an attorney does not ipso facto imply authority to compromise his client's case." *Cohen v. Goldman*, 85 R.I. 434, 438-39, 132 A.2d 414, 416 (1957). Instead, the party seeking to rely on the attorney's signature to bind the client must demonstrate that the attorney held actual or apparent authority. *Parrillo*, 681 A.2d at 919.

"It is the conduct of the client and not that of the attorney which must be considered in determining whether apparent authority exists[.]" *Cohen*, 85 R.I. at 439, 132 A.2d at 417 (citing *Ferro Concrete Construction Co. v. United States*, 112 F.2d 488, 488 (1st Cir. 1940)). "'Apparent authority is the power to affect the legal relations of another person by transactions with third persons, professedly as agent for the other, arising from and in accordance with the other's manifestations to such third persons.'" *Parrillo*, 681 A.2d at 919 (quoting Restatement (Second) *Agency* § 8 (1958)). "[T]o create this authority, the principal (that is, the client) must manifest to the third party (that is, the opposing party and/or its counsel) that he or she 'consents to have the act done on his [or her] behalf by the person purporting to act for him [or her.]'" *Id.* (quoting Restatement (Second) *Agency* § 27; *Cohen*, 85 R.I. at 439, 132 A.2d at 417). Thus, the relevant inquiry for the Court is whether Plaintiff authorized her counsel to enter into a settlement agreement on her behalf.

Here, Defendants have not presented evidence of communications between Plaintiff, the principal, and themselves or their counsel to demonstrate actual or apparent authority. The fact that Plaintiff was represented in this transaction by counsel is insufficient to clothe her counsel with apparent authority to settle this action. *See Parrillo*, 681 A.2d at 920 ("[A]ttorneys have no general implied power to settle cases on behalf of their clients simply because they have been

engaged to or actually do represent a client in connection with a lawsuit . . ."); *see also Nash v. Y and T Distributors*, 207 A.D.2d 779, 781 (N.Y. 1994) (where the court found that a party could not infer authority of an attorney to settle a case even when that attorney engaged in negotiations that culminated in the challenged settlement agreement).

Without evidence demonstrating that Plaintiff actually or apparently authorized her counsel to enter into a settlement agreement, there is an issue of genuine material fact as to whether the purported settlement agreement is signed by the party to be charged therewith—and therefore, the Court cannot enforce the "agreement." *See Rossi*, 2001 WL 1097791, at *1 ("'a trial court may not summarily enforce a purported settlement agreement if there is a genuinely disputed question of material fact regarding the existence . . . of that agreement'") (quoting *Malave*, 170 F.3d at 220. Further, Defendants acknowledge that "whether [Plaintiff's] attorney's email signature can suffice to satisfy the Statute of Frauds is 'a material factual dispute to be resolved by a fact finder.'" (Defs.' Reply 9) (quoting *Cranston/BVT Associates, Ltd. v. Sleepy's LLC*, No. 13-594 S, 2015 WL 5793693, at *12 (D.R.I. Sept. 30, 2015)).

Here, Defendants have not presented a signature of Plaintiff or her authorized agent sufficient to satisfy the statute of frauds, and, for that reason, Rhode Island's statute of frauds bars Defendants' Motion to Enforce Settlement Agreement.

B

Part Performance Exception

Defendants present an additional theory under which they contend the settlement agreement must be enforced: the part performance exception to the statute of frauds. (Defs.' Reply 2.) "Defendants have performed their obligations under the Settlement Agreement to such an extent," they argue, "that, pursuant to Rhode Island law it would be unjust for Plaintiff to

avoid enforcement of the Parties' Settlement Agreement[.]" *Id*. Plaintiff, however, asserts that "there has been no part performance of any alleged contract for the sale of real property by the Defendants." (Pl.'s Response 1.)

Rhode Island courts have long recognized the doctrine of part performance: "When a party seeking enforcement of an oral contract 'has performed to such an extent that repudiation of the contract would lead to an unjust or fraudulent result, the court will disregard the requirement of a writing and enforce an oral agreement.'" *Richard v. Richard*, 900 A.2d 1170, 1175 (R.I. 2006) (quoting *R.W.P. Concessions, Inc. v. Rhode Island Zoological Society*, 487 A.2d 129, 131 (R.I. 1985)). "A court generally will enforce an alleged oral contract pursuant to the doctrine of part performance only if a party can adequately demonstrate, in reliance on said agreement, possession of the property, improvements thereon, or payment of a substantial part of the purchase price." *Id.* (citing *Pearl Brewing Co. v. McNaboe*, 495 A.2d 238, 242 (R.I. 1985)). However, "the statute of frauds is not to be taken lightly, and any partial performance must unequivocally indicate the existence of the purported oral agreement." *Id.*

To support their claim of part performance, Defendants present a series of facts through sworn affidavits establishing that: since October of 2021 (1) "Defendants [have] been in sole possession of the Property"; (2) "Defendants paid the taxes, insurance, maintenance expenses and capital improvements from that moment forward, without seeking reimbursement or contribution from the Plaintiff"; and (3) "Defendants encumbered John's property with a $340,000.00 [mortgage] and offered payment to Plaintiff[.]" (Defs.' Reply 5-6.)

Plaintiff disputes that Defendants alone have paid all tax expenses. (Pl.'s Response 7.) She maintains that she has "made and sent various quarterly tax payments to the Town . . . for property taxes and fire district taxes towards the Property . . . subsequent to October 2021." (Pl.'s

Response, Ex. A., ¶ 15.) Further, Plaintiff correctly notes that "the payment of taxes, insurance and maintenance expenses is not one of the elements necessary and/or considered with regard to the part performance exemption to the Statute of Frauds under Rhode Island law." (Pl.'s Response 6.)

To understand the requirements of the part performance exception, the decision in *R.W.P. Concessions, Inc*. is instructive. The action in *R.W.P. Concessions, Inc*. arose out of an alleged oral agreement to lease park premises to sell concessions between the plaintiff, a concessions seller, and the defendant zoological corporation, which exclusively held assignable rights to sell concessions in Roger Williams Park. *R.W.P. Concessions, Inc*, 487 A.2d at 131. There, the parties had engaged in several months of negotiations, as here, but never signed and/or executed an agreement. *Id.* When the action arose, the plaintiff was in actual possession of the premises and had "commenced making the necessary capital improvements to open the concessions." *Id.* However, the plaintiff did not pay rent, and the Court determined that "no permanent improvements were undertaken by plaintiff[.]" *Id.* at 132. The Court considered whether the plaintiff "had performed part of the agreement sufficient to remove the oral contract from the statute of frauds," and determined that it had not. *Id.* at 131. In its holding, the Court was clear, "[w]here capital improvements are readily removed and obligations due under the contract have not been satisfied, the reliance necessary to invoke the doctrine of part performance has not been established." *Id.* at 132 (citing *Star Dinette & Appliance Co. v. Savran*, 104 R.I. 665, 666, 248 A.2d 69, 70 (1968)).

i

Possession

Here, Defendants are in possession of the Property, (Defs.' Reply 6), but their continued possession has not changed in access or use in the time since reaching the purported "settlement agreement." (Pl.'s Response, Ex. A, ¶¶ 12, 13.) Defendants argue that although they "had already been in possession of the Property, Plaintiff's continued acquiescence to the same, without contribution to the maintenance of the Property, was based on the fact that they had come to [the agreement.]" (Defs.' Reply 6.) However, Defendants fail to present any evidence showing *how* the possession changed after October of 2021. Bare allegations of Plaintiff's acquiescence are insufficient to demonstrate possession in reliance on a settlement agreement. This argument falls short of the "unequivocal[] indicat[ion]" of the existence of an agreement that is required to satisfy part performance. *See, e.g.*, *Richard*, 900 A.2d at 1175.

ii

Improvements

In addition, Defendants aver that they have "invest[ed] a significant amount of money to not only maintain the house, but to permanently improve its structural integrity[.]" (Defs.' Reply 6-7.) To support this claim, they draw parallels to the facts in *Richard*—however, the improvements made there are clearly distinguishable from those made here. *Id.* at 7 (citing *Richard*, 900 A.2d at 1175). In *Richard*, the Court found part performance was met where appellees maintained continued possession of the disputed real property and permanently improved the premises with "the addition of new doors and a banister, the replacement of floors, and the renovation of the bedrooms[.]" *Richard*, 900 A.2d at 1177. Further, the appellees appended a sunroom, retiled the front entryway, improved the landscaping, and renovated the

kitchen. *Id.* Here, in contrast, Defendants removed trees and yard debris, (Defs.' Reply, Ex. B, ¶¶ 2, 7), repaired the floating dock and its access points, *id.* ¶¶ 3, 6, and installed a new oil tank, *id.* ¶ 4. These "improvements" differ in both their significance and their permanency from those in *Richard.*

iii

Substantial Payment of Purchase Price

Finally, it is uncontested that Defendants have not tendered the purchase price to Plaintiff under the terms of the purported agreement. *See*, *e.g*., Pl.'s Response, Ex. A, ¶ 14; Defs.' Reply 7. Defendants argue that they are "ready, willing, and able" to transfer the funds to Plaintiff, (Defs.' Mot. to Enforce, Ex. D, ¶ 5), but importantly, the ability to pay the purchase price is not the pertinent inquiry under the doctrine of part performance. *See Richard*, 900 A.2d at 1175 (listing possession, improvements, and substantial payment of purchase price as factors considered in part performance).

Our Supreme Court "look[s] with some degree of skepticism upon the claims of any party who seeks to escape from the statutory mandate by invoking an exception." *Id.* at 1177. Here, considering that Defendants have only shown continued possession and minor, impermanent improvements to the property, the Court finds that part performance has not been met. Defendants have failed to show "some combination of improvements, substantial payment of the purchase price, or possession" to unequivocally establish the terms and existence of the agreement. *See id.*

IV

Conclusion

For the reasons stated above, Defendants' Motion to Enforce Settlement Agreement is DENIED. Counsel shall submit the appropriate order for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**Merriam v. Merriam and Merriam Cole**
CASE NO:	**WC-2020-0016**
COURT:	**Washington County Superior Court**
DATE DECISION FILED:	**November 27, 2024**
JUSTICE/MAGISTRATE:	**Taft-Carter, J.**
ATTORNEYS:	
For Plaintiff:	**John O. Mancini, Esq.**
For Defendant:	**Thomas P. Carter, Esq.** **Nicholas J. Hemond, Esq.**