

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-cv-01158

EZRA LAMBERT, et al.,

Defendants.

MEMORANDUM OPINION & ORDER

In its April 19, 2010 Memorandum Opinion and Order [Docket 69] and Judgment Order [Docket 70], this court neglected to address defendant Ezra Lambert's Counterclaim [Docket 17]. This counterclaim is **DISMISSED**. Most of the counterclaim is moot. Mr. Lambert's request for a declaratory judgment that the plaintiff has a duty to defend or indemnify him has been granted by this court's April 19, 2010 Memorandum Opinion and Order granting summary judgment to the defendant Betty Jean Hale. To the extent that the counterclaim requests compensation for the guardian ad litem, this request has already been denied in this court's April 23, 2009 Order [Docket 22 (citing Syl. pt. 1, *Quesinberry v. Quesinberry et al.*, 443 S.E.2d 222 (W. Va. 1994))]. Finally, Mr. Lambert's request for costs, attorneys fees, and expenses is **REFERRED** to the Honorable Mary E. Stanley, United States Magistrate Judge, pursuant to this court's Standing Order [Docket 2].

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 26, 2010


Joseph R. Goodwin, Chief Judge