

IN THE CIRCUIT COURT OF ROANE COUNTY
STATE OF WEST VIRGINIA

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CIRCUIT CLERK

WILLIAM L. GROVES and HARROLYN
B. GROVES, Husband and Wife,
Plaintiffs,

v.

Civil Action No. 05-C-62
Honorable Robert G. Chafin

ROY G. HILDRETH AND SON, INC.;
ROY G. HILDRETH, JR., individually;
NITRO ENERGY, INC.; GMH GAS CO.,
INC.; THOMAS C. EVANS, III, individually;
and BOGGS NATURAL GAS, FLP (named
for the purpose of instituting this action only),
Defendants.

FINAL JUDGMENT ORDER

This matter came before the Court on the 22nd day of August, 2006, on Motion by Plaintiffs William L. Groves and Harrolyn B. Groves for entry of Default Judgment against Nitro Energy, Inc. Having reviewed the Motion setting forth all requirements in accordance with West Virginia Rule of Civil Procedure 55, the entry of this Court's previous Order of Judgment as to Liability, the entire record in this case, pertinent legal authorities, and the testimony adduced at the hearing held this day, the Court holds as follows:

The record indicates that the Complaint in the above-captioned matter was filed in this Court and that a Summons and Complaint were duly served upon Defendant Nitro Energy, Inc. No answer or other defense or pleading has been filed by Defendant Nitro Energy, Inc., and the defendant has failed to appear, plead, or otherwise defend in this action in the time permitted by law. The Court expressly determines that there is no just reason for delay of final judgment in accordance with West Virginia Rule of Civil Procedure 54, and that, on balance, consideration of the *Parsons* factors supports entry of Default Judgment.

Appellant's
Exhibit A

Approved
O. Jones
R. McCuskey
5-06

Defendant Nitro energy, Inc., has not requested a jury, and Plaintiffs expressly waive a jury as to Defendant Nitro Energy, Inc., for purposes of Default Judgment. Plaintiffs have requested judgment for the sum of \$1,291,000, post-judgment interest at 10% per annum in accordance with West Virginia Code § 56-5-31, plus costs expended.

Ruling

For the above mentioned reasons, the Court hereby GRANTS Plaintiffs' Motion for Default Judgment against Nitro Energy, Inc.

It is hereby ORDERED that Default Judgment be entered against Nitro Energy, Inc., in this matter.

It is additionally ADJUDGED and ORDERED that Plaintiffs' Motion for Default Judgment be and hereby is GRANTED. Further, it is ADJUDGED and ORDERED that Plaintiffs William L. Groves and Harrolyn B. Groves do recover of and from Defendant Nitro Energy, Inc, the sum of \$704,000 with post-judgment interest at the rate of 10% per annum from the date of judgment until paid and costs expended.

It is further ORDERED that the Clerk enter the foregoing as of the day and date first hereinabove written, remove Nitro Energy, Inc., as a defendant in this action, and forward an attested copy of this ORDER to all counsel of record and all *pro se* litigants.

ENTERED this Order the 25th day of August, 2006.

Prepared by:

Harrolyn B. Groves
Harrolyn B. Groves, *Pro Se*
2189 Otto Road
Spencer, WV 25276
(304) 927-4734

Robert G. Chafin
Honorable Robert G. Chafin
Special Judge of the 5th Judicial Circuit

Entered in ^{CIV} C.O.B. No. 41 Page 578
this 2 day of Sept, 2006

IN THE CIRCUIT COURT OF ROANE COUNTY
STATE OF WEST VIRGINIA

WILLIAM L. GROVES and
HARROLYN B. GROVES,
Husband and Wife,
Plaintiffs,

v.

Civil Action No. 05-C-62
Honorable Robert G. Chafin

ROY G. HILDRETH & SON, INC.;
ROY G. HILDRETH, JR., individually;
GMH GAS CO., INC.; and
THOMAS C. EVANS, III, individually,
Defendants.

ORDER DENYING MOTION TO VACATE DEFAULT JUDGMENT

This matter came before the Court on the 13th day of December, 2006, on motion brought on for hearing by Nitro Energy, Inc. (Nitro), for Vacation of the Court's Final Judgment Order.

The Court, having considered Nitro's motion, Plaintiffs' response, Nitro's reply, the exhibits, the arguments of the parties, Plaintiffs' expert witness testimony, the law of the case, and the record as a whole makes the following Findings of Fact and Conclusions of Law:

1. Having considered the *Parsons* factors, the court found that the factors support an award of a final default judgment against Nitro, whose intransigence must be weighed heavily against it.
2. Nitro has presented no argument or excuse which rises to the level of excusable neglect or unavoidable delay justifying the relief requested.
3. Having further performed the *Hardwood* analysis, this court holds that the grant of final default judgment and the award to Plaintiffs is reasonable and proper.

Appellant's
Exhibit B

Copies to
Parties
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CIRCUIT CLERK

RULING

For the above-mentioned reasons, the Court hereby DENYS Nitro's motion to vacate the default judgment awarded to Plaintiffs William L. Groves and Harrolyn B. Groves, all of which is ADJUDGED and ORDERED accordingly.

It is additionally ORDERED that the exceptions and objections of Nitro are hereby noted of record and preserved.

It is further ORDERED that the Circuit Clerk shall forward an attested copy of this order to all counsel of record and all *pro se* litigants.

ENTERED this Order the 20 day of February, 2007.

Robert G. Chafin
Honorable Robert G. Chafin
Special Judge of the 5th Judicial Circuit

Prepared by:

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Entered in ^{Civil} E.O.B. No. 42 Page 244
this 20th day of February, 2007

Approved by:

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2189 Otto Road
Spencer, WV 25276-7635

TRUE COPY TESTE:

Beverly Deathouse
CLERK of CIRCUIT COURT of
ROANE COUNTY, WEST VIRGINIA
BY Andrea Stockman
DEPUTY

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Charleston, WV 25312
Counsel for Defendant Nitro