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IN THE CIRCUIT COURT OF WIRT COUNTY, WEST VIRGINIA

LESLIE EQUIPMENT COMPANY,
A West Virginia Corporation,
Plaintiff,

ENTERED
CIVIL
OB NO. 13
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vs.

Civil Action No. 07-C-35

WOOD RESOURCES COMPANY, L.L.C.
CHRISTOPHER TODD ZACH, individually
and d/b/a Wood Resources Company, L.L.C.,
RAMONA C. GOEKE, individually and
d/b/a Wood Resources Company, L.L.C., and
WENDELL L. KOPREK, individually and
d/b/a Wood Resources Company, L.L.C.
Defendants.

ORDER

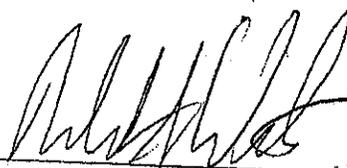
On the 12th day of May, 2008, came Plaintiff, Leslie Equipment Company, a West Virginia Corporation, by counsel, David H. Wilmoth, and came also defendants Ramona C. Goeke, and Christopher T. Zach, by counsel P. Todd Phillips, Esq, for hearing on defendants Motion to Set Aside Default Judgment.

THEREAFTER, the Court heard the arguments of counsel and reviewed the pleadings and other matters as well as the briefs of the parties and other contents of the Court's file in this matter. Upon mature consideration of all of which the Court does hereby find that each of the defendants received, and did today acknowledge, actual notice of the pendency of this action as reflected by the signed return cards contained in the Court file. This Court does further find that *W. Va. Code* §56-3-33 expressly provides for service in the manner, pursuant to Rule 4 (e) (2), by which plaintiff accomplished service of process in this matter. The Court does further find that defendants have failed to show either good cause or excusable neglect in support of the relief requested in light of the above, and that the failure to respond to process in this matter was

apparently a strategic decision by defendants. Finally the Court finds that previous decisions of the W. Va. Supreme Court of Appeals have determined that where Rules of Civil Procedure and the Statutes of this State are in conflict, the Rules, as promulgated, shall control in matters in controversy. In consideration of all of which this Court does hereby

ORDER that defendants Motion to Set Aside Default Judgment and Dismiss for Lack of Jurisdiction be and hereby are DENIED. This Court does further ORDER that the default judgments previously entered against each of the defendants in this matter shall remain in full force and effect. There being nothing further, the Clerk is directed to send a copy of this Order to counsel of record and to place this matter among the ended files, and remove this matter from the active docket of this Court.

ENTER this 22nd day of May, 2008.


CIRCUIT JUDGE

Prepared by:

David H. Wilmoth
Counsel for Plaintiff
W. Va. State Bar No. 5942
P.O. Box 933
427 Kerens Ave.
Elkins, WV 26241
(304) 636-9425

Thereby certify that the foregoing is a true and correct copy of the original entry on file in my office.

ATTEST: Theresa Rollins
Circuit Clerk - Wirt County, WV


Date 5/27/08